



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

J. ERIC BOYETTE  
SECRETARY

February 23, 2022

MEMO TO: Chad D. Kimes, P.E.  
Division 3 Engineer

FROM: Mason Herndon  
Division 3 PDEA Engineer

SUBJECT: Section 404 Individual Permit Modification and Section 401 Water Quality Certification Modification for construction of the Beane Mitigation Site in Pender County. WBS 40237.4.S1, TIP No. R-3300B

Attached are the revised U.S. Army Corps of Engineers Section 404 Permit, N.C. Division of Water Resources (NCDWR) 401 Water Quality Certification and N.C. Division of Coastal Management Federal Consistency for construction of the Beane Mitigation Site located East of Island Creek and South of the Cape Fear River in New Hanover County. This modification only approves construction of the Beane Mitigation site. This modification also extends the U-4751/R-3300 permit expiration date to **December 31, 2027**. Except as revised by this modification, all permit conditions in the original and previous modifications of the U-4751/R-3300 permits remain valid and applicable to this project when relevant.

If you have any questions or if I can be of any further assistance, please do not hesitate to contact me.

cc: (w/attachments)

Katie Hite, P.E. Division 3 Project Development Engineer  
David Leonard, P.E. Division 3 Project Lead  
Anthony Law, P.E. Division 3 Construction Engineer  
Sean Farrell, Division 3 Environmental Officer  
Jonathan Mitchell, Division 3 Contract Engineer  
Jason Elliot, EAU Monitoring and Stewardship

*Mailing Address:*  
NC DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS  
5501 BARBADOS BOULEVARD  
CASTLE HAYNE, NC 28429-5647

*Telephone:* 910-341-2000  
*Fax:* 910-675-0143  
*Customer Service:* 1-877-368-4968  
*Website:* [ncdot.gov](http://ncdot.gov)

*Location:*  
5501 BARBADOS BOULEVARD  
CASTLE HAYNE, NC 28429-5647

## PROJECT COMMITMENTS

Proposed Military Cutoff Road Extension and  
Proposed US 17 Hampstead Bypass  
New Hanover and Pender Counties  
State Project 40191.1.2/40237.1.2  
**STIP Projects U-4751 and R-3300**

## COMMITMENTS FROM PROJECT DEVELOPMENT AND DESIGN

### **Project Development and Environmental Analysis Unit**

Additional coordination with the US Fish and Wildlife Service regarding the project's potential effects on endangered species will be conducted prior to submitting the Section 404 permit application to the US Army Corps of Engineers.

If red-cockaded woodpecker foraging habitat ceases to exist at the northern interchange at the time NCDOT applies for authorization from the US Army Corps of Engineers to construct the project, the Department will revisit the original interchange design, known as Alternative E-H ORIG. As currently described, Alternative E-H ORIG would further minimize wetland impacts compared to Alternative E-H with Option 6TR, which is the selected alternative.

Memorandums of Agreement will be prepared between the US Army Corps of Engineers, the State Historic Preservation Office, and NCDOT for Mount Ararat AME Church and archaeological site 31PD344\*\*. The US Army Corps of Engineers will serve as the lead federal agency with respect to compliance with Section 106 of the National Historic Preservation Act.

The preliminary traffic noise analysis conducted for the project found five locations where noise barriers may be feasible and reasonable for the selected alternative. A more detailed review will be completed during project final design to determine whether these or other noise barriers are feasible and reasonable.

The red knot and the northern long-eared bat are proposed for listing by the USFWS as threatened and/or endangered species. The listings may become effective as soon as October 2014. These species are not included in USFWS's current list of protected species for New Hanover and Pender Counties. NCDOT is working closely with USFWS to understand how these proposed listings may impact NCDOT projects. NCDOT will continue to coordinate appropriately with USFWS to determine if this project will incur potential effects to the red knot and northern long-eared bat, and how to address these potential effects, if necessary.

*These commitments were addressed prior to permitting.*

## **Project Development and Environmental Analysis Unit and Roadway Design Unit**

NCDOT will continue to explore options to avoid and minimize impacts to jurisdictional resources with the proposed US 17 Hampstead Bypass service roads and will seek formal concurrence from the merger team after all service road options have been explored.

*This commitment was addressed prior to permitting.*

## **Roadway Design Unit, Hydraulics Unit, Roadside Environmental Unit and Division 3**

Howe Creek has been designated an outstanding resource water (ORW) by the North Carolina Division of Water Resources (NCDWR). Tributaries of this stream (BDITCH1) are designated ORW due to the classification of their receiving waters. Design Standards in Sensitive Watersheds will be implemented for BDITCH1 during project construction.

Old Topsail Creek and Nixons Creek are designated as Commercial Shellfishing, High Quality Waters (SA; HQW) by NCDWR. Tributaries of these streams (NSA, NSF, NDITCH1 and ZTRIB1) are designated SA; HQW due to the classification of their receiving waters. Design Standards in Sensitive Watersheds will be implemented for these streams during project construction.

*This commitment will be implemented during construction.*

## **Roadway Design Unit and Hydraulics Unit**

3:1 slopes are proposed in wetland areas and adjacent to streams.

*This commitment was addressed during design.*

## **Division 3 Construction**

Areas within 750 feet of Cape Fear Public Utility Authority (CFPUA) wellheads will be treated as environmentally sensitive areas during construction. NCDOT will require the contractor to use orange fencing and post signs to identify these areas as environmentally sensitive. Staging areas and refueling will not be permitted within the environmentally sensitive areas.

No right-of-way acquisition or construction will occur within a 100-foot radius around the Belvedere Subdivision well and access to the well site will be maintained. The well is located between existing US 17 and North Belvedere Drive in Hampstead.

*This commitment was addressed during design.*

## **Roadway Design Unit and Division 3**

The Special Provisions for the Military Cutoff Road Extension (Project U-4751) will include a requirement for the contractor to educate their employees that project construction is occurring within a wellhead protection area.

NCDOT will require the contractor for Military Cutoff Road Extension to provide a mobile

response spill kit on site during construction. At the end of project construction, the kit will be transferred to the Cape Fear Public Utility Authority. The CFPUA has agreed to provide a place to store the kit at their water treatment plant located adjacent to the proposed Military Cutoff Road Extension.

*This commitment will be implemented during construction.*

### **Roadway Design Unit and Transportation Program Management**

NCDOT will coordinate with local officials as the project progresses regarding the status of local greenway plans and proposed walking trails.

The Wilmington Metropolitan Planning Organization (MPO) has requested the inclusion of a multi-use path along proposed Military Cutoff Road Extension. The multi-use path would tie into an existing multi-use path along Military Cutoff Road. The construction of a multi-use path as part of the proposed project will be dependent upon a cost-sharing and maintenance agreement between NCDOT and the Wilmington MPO. NCDOT will continue to coordinate with the Wilmington MPO on the inclusion of the multi-use path along Military Cutoff Road Extension.

*This commitment was addressed during design.*

### **Roadway Design Unit and Utilities Section**

NCDOT will coordinate with the Pender County School System regarding impacts of the proposed Hampstead Bypass on the Topsail Schools complex's wastewater treatment facility during the project's right-of-way phase.

*This commitment will be implemented during construction.*

### **Roadway Design Unit**

Well locations and a 100-foot buffer around the wells will be depicted on final construction plans for proposed Military Cutoff Road Extension.

NCDOT will further investigate ways to avoid impacts to the Corbett Tract and the Plantation Road Mitigation sites during detailed project design. If possible, no right-of-way will be acquired from these sites.

The U-turn bulb-out on Military Cutoff Road Extension just north of the Cape Fear Public Utility Authority Nano Water Treatment Plant will not be placed in the adjacent wetland (Wetland CWA).

*This commitment was addressed during design.*

### **Hydraulics Unit**

The Hydraulics Unit will coordinate with the NC Floodplain Mapping Program (FMP), the delegated state agency for administering FEMA's National Flood Insurance Program, to determine the status of the project with regard to applicability of NCDOT's Memorandum of Agreement with FMP (dated April 22, 2013), or approval of a Conditional Letter of Map

Revision (CLOMR) and subsequent final Letter of Map Revision (LOMR).

NCDOT will review the existing permit requirements for all stormwater ponds impacted by Military Cutoff Road Extension to ensure the permitted treatment requirements are maintained under post-construction conditions.

*This commitment was addressed during design.*

### **Roadway Design Unit and Structure Design Unit**

Bicycle safe bridge railing will be provided on the NC 210 bridge over the US 17 Hampstead Bypass. Four-foot paved shoulders will be provided on NC 210 within the project limits.

A retaining wall will be provided on the west side of proposed Military Cutoff Road Extension south of Putnam Drive to avoid impacts to Wetland PD-01.

The use of retaining walls will be evaluated at stormwater ponds BPE and BPF, which are located on the east side of Military Cutoff Road Extension between Lendire Road and Torchwood Boulevard.

*This commitment was addressed during design.*

### **Division 3**

This project involves construction activities on or adjacent to FEMA-regulated stream(s). Therefore, the Division shall submit sealed as-built construction plans to the Hydraulics Unit upon completion of project construction, certifying the drainage structure(s) and roadway embankment located within the 100-year floodplain were built as shown in the construction plans, both horizontally and vertically.

*This commitment was addressed during design.*

### **Geotechnical Unit**

Military Cutoff Road Extension may impact five properties that either have or formerly had underground storage tanks. US 17 Hampstead Bypass Alternative E-H may impact one property that either has or formerly had underground storage tanks. Preliminary site assessments to identify the nature and extent of any contamination will be performed at any potential hazardous materials sites prior to right-of-way acquisition.

*This commitment was addressed prior to right-of-way acquisition*

## **COMMITMENTS FROM PERMITTING**

### **Phased Permits**

This permit only authorizes work on U-4751 of TIP U-4751/R-3300 (Military Cutoff-Hampstead Bypass). Construction of R-3300 of TIP U-4751/R-3300 shall not commence

until final design has been completed for those sections, the permittee has minimized impacts to waters and wetlands to the maximum extent practicable, and any modifications to the plans, and a compensatory mitigation plan, have been approved by the US Army Corps of Engineers (USACE).

The modification request for future R-3300 will be recirculated under Public Notice to gather relevant comments related to finalized hydraulic structures and other modifications realized during final plan preparation. NCDOT is responsible for providing updated mailing list labels along with the final plans for R-3300 at the time of modification request.

*These Commitments were addressed for R-3300B with application and will be addressed after final design completion for R-3300A.*

### **Cultural Resources**

NCDOT shall abide by all stipulations identified in the Memorandum of Agreement between the United States Army Corps of Engineers and the North Carolina State Historic Preservation Officer, signed 29 January 2015 and filed by the Advisory Council on April 15, 2016.

While accomplishing the authorized work, if the permittee discovers any previously unknown cultural resources, the USACE will be immediately notified so that required coordination can be initiated with the North Carolina Division of Cultural Resources.

## **COMMITMENTS FROM R-3300B PERMITTING**

The use of riprap placed for stream channel stabilization shall be buried to the natural streambed elevation in stream channels in such a manner that it does not impede aquatic life passage or change the dimension, pattern and profile of the stream. [15A NCAC 02H.0506(b)(2)]

Erosion control matting in riparian areas shall not contain a nylon mesh grid which will impinge and entrap small animals. Matting should be secured in place by staples, stakes, or wherever possible live stakes of native trees. Riparian areas are defined as a distance 25 feet from the top of stream bank, [15A NCAC 02B.0224, .0225]



DEPARTMENT OF THE ARMY  
WILMINGTON DISTRICT, CORPS OF ENGINEERS  
69 DARLINGTON AVENUE  
WILMINGTON, NORTH CAROLINA 28403-1343

February 22, 2022

Regulatory Division  
Action ID. SAW-2007-01386

Chad Kimes, PE  
Division 3 Engineer  
N.C. Department of Transportation  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Dear Mr. Kimes:

Reference the Department of the Army (DA) permit issued on August 10, 2017, for the discharge of fill material into waters and wetlands adjacent to various creeks, and their tributaries in order to construct TIP# U-4751 and R-3300 (Military Cut Off Road and Hampstead ByPass), in New Hanover and Pender Counties, North Carolina. This was a phased permit for the entire project and to date U-4751 and R-3300 B have been authorized for construction. The final phase R-3300 A would require a future modification of the permit to begin construction.

Further reference your January 18, 2022, request for modification to the permit mentioned above. The current modification request addresses two items; the construction of the Beane mitigation site as described/outlined in the Merger agency approved December 2021 Mitigation Plan and a five-year extension to the roadway authorization. The construction of the Beane mitigation site involves 5.506 acres of permanent surface water impacts associated with filling tributaries, 78.41 acres of mechanized land clearing for the conversion of an existing pine stands to native plant communities, and 0.099 acres of excavation for road removal and grading.

I have determined that the proposed project modifications described above are not contrary to the public interest and consistent with 404 (B)(1) and therefore, the DA permit is hereby modified.

**All original conditions in the August 10, 2017, permit as well as previous modifications remain enforceable with a new expiration date of December 31, 2027. Therefore, the following conditions have been added to specifically address the Beane Mitigation site:**

**New special conditions:**

1. All work authorized by this modification shall be performed in strict compliance with permit drawing PD-1 dated 12/22/2021 and construction drawings OSM 1-11 dated 12/17/2021 which are part of this permit. Any modification to the authorized plans must be approved by the U.S. Army Corps of Engineers (Corps) prior to any active construction in waters or wetlands.

2. The Permittee shall fully implement the compensatory mitigation plan, entitled Final Wetland Mitigation Plan, Beane Property Wetland Mitigation Site, New Hanover County, dated December 2021 for the unavoidable impacts to tributaries and wetlands. Activities prescribed by this plan shall be initiated prior to, or concurrently with, commencement of any construction activities within jurisdictional areas authorized by this permit. The Permittee shall provide 79 acres of wetland restoration, 78 acres of wetland enhancement, and 31 acres of wetland preservation in accordance with the plan and with the following conditions:

- a. The Permittee, NCDOT, is the party responsible for the implementation, performance and long-term management of the compensatory mitigation project.
- b. Any changes or modifications to your mitigation plan shall be first approved by the Corps.
- c. The Permittee shall maintain the entire mitigation site in its natural condition, as altered by the work in the mitigation plan, in perpetuity. Prohibited activities within the mitigation site specifically include, but are not limited to: Filling; grading; excavating; earth movement of any kind; construction of roads, walkways, buildings, signs, or any other structure; any activity that may alter the drainage patterns on the property; the destruction, cutting, removal, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, debris or other waste material; graze or water animals, or use for any agricultural or horticultural purpose; or any other activity which would result in the property being adversely impacted or destroyed, except as specifically authorized by this permit.
- d. The Permittee shall not sell or otherwise convey any interest in the mitigation property used to satisfy the mitigation requirements for this permit to any third party, without prior written approval from the Wilmington District Corps of Engineers.
- e. Within 60 days of notification by the Corps that the compensatory mitigation is unsuccessful, the Permittee shall submit to the Corps an alternate compensatory mitigation proposal to fully offset the functional loss that occurred as a result of the project. The alternate compensatory mitigation proposal may be required to include additional mitigation to compensate for the temporal loss of wetland function associated with the unsuccessful

compensatory mitigation activities. The Corps reserves the right to fully evaluate, amend, and approve or reject the alternate compensatory mitigation proposal. Within 120 days of Corps approval, the Permittee will complete the alternate compensatory mitigation proposal.

This modification approval will be utilized for future compliance of the project. If you have questions, please contact Brad Shaver of the Wilmington Regulatory Field Office, at telephone (910) 251-4611.

FOR THE COMMANDER

 Date: 2022.02.22  
15:01:29 -05'00'

Monte Matthews  
Lead Project Manager  
Wilmington District

Copies Furnished (electronic w/o attachments):

Mr. Mason Herndon, NCDOT  
Ms. Hannah Sprinkle, NCDEQ-DWR  
Ms. Amanetta Somerville, USEPA  
Mr. Gary Jordan, USFWS  
Mr. Travis Wilson, NCWRC  
Ms. Renee Gledhill-Earley, SHPO  
Mr. Monte Matthews, USACE  
Ms. Cathy Brittingham, NCDEQ-DCM  
Mr. Stephen Lane, NCDEQ-DCM



DEPARTMENT OF THE ARMY  
WILMINGTON DISTRICT, CORPS OF ENGINEERS  
69 DARLINGTON AVENUE  
WILMINGTON, NORTH CAROLINA 28403-1343

December 14, 2021

Regulatory Division

Action ID. SAW-2007-01386

Chad Kimes, PE  
Division 3 Engineer  
N.C. Department of Transportation  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Dear Mr. Kimes:

Reference the Department of the Army (DA) permit issued on August 10, 2017, for the discharge of fill material into waters and wetlands adjacent to various creeks, and their tributaries in order to construct TIP# U-4751 and R-3300 (Military Cut Off Road and Hampstead ByPass), in New Hanover and Pender Counties, North Carolina. This was a phased permit for the entire project and to date U-4751 and R-3300 B have been authorized for construction. The final phase R-3300 A would require a future modification of the permit to begin construction.

Further reference your October 21, 2021 request for modification to the permit mentioned above. This request will result in an overall reduction of permanent impacts by removing a previously authorized service road (SR-8) and small changes to permit site 31 within R-3300 B. These revisions will reduce the wetland impacts by 2.02 acres and permanent stream impacts by 7 linear feet while increasing temporary stream impacts by 27 linear feet. The reduction in impacts results in surplus mitigation which is anticipated to be used in future phases of the project and tracked through subsequent modifications.

I have determined that the proposed project modifications described above are not contrary to the public interest and consistent with 404 (B)(1) and therefore, the DA permit is hereby modified.

**All original conditions in the August 10, 2017 permit as well as the June 26, 2020 modification remain enforceable with an expiration date of December 31, 2022. New special conditions follow:**

1. All work authorized by this permit shall be performed in strict compliance with the permit plans 1-162 of 162 dated 8/27/2021 which are part of this permit. The permittee

shall ensure that the construction design plans for this project do not deviate from the permit plans incorporated by reference. Any modification to the permit plans dated 8/27/2021 must be approved by the U.S. Army Corps of Engineers (Corps) prior to any active construction in waters or wetlands.

This modification approval will be utilized for future compliance of the project. If you have questions, please contact Brad Shaver of the Wilmington Regulatory Field Office, at telephone (910) 251-4611.

FOR THE COMMANDER

  
Monte  
Matthews  
Monte Matthews  
Lead Project Manager  
Wilmington District

Date: 2021.12.14  
16:49:44 -05'00'

Copies Furnished (electronic w/o attachments):

Mr. Mason Herndon, NCDOT  
Ms. Hannah Sprinkle, NCDEQ-DWR  
Ms. Amanetta Somerville, USEPA  
Mr. Gary Jordan, USFWS  
Mr. Travis Wilson, NCWRC  
Ms. Renee Gledhill-Earley, SHPO  
Mr. Monet Matthews, USACE  
Ms. Cathy Brittingham, NCDEQ-DCM  
Mr. Stephen Lane, NCDEQ-DCM



DEPARTMENT OF THE ARMY  
WILMINGTON DISTRICT, CORPS OF ENGINEERS  
69 DARLINGTON AVENUE  
WILMINGTON, NORTH CAROLINA 28403-1343

June 26, 2020

Regulatory Division

Action ID. SAW-2007-01386

Chad Kimes, PE  
Division 3 Engineer  
N.C. Department of Transportation  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Dear Mr. Kimes:

Reference the Department of the Army (DA) permit issued on August 10, 2017, for the discharge of fill material into waters and wetlands adjacent to various creeks, and their tributaries in order to construct TIP# U-4751 and R-3300 (Military Cut Off Road and Hampstead ByPass), in New Hanover and Pender Counties, North Carolina. This was a phased permit for the entire project with only U-4751 authorized for construction to date. Subsequent permit modifications would authorize construction of additional phases within the limits of the original permit.

Further reference your April 7, 2020 request for modification to the 2017 permit mentioned above. This request is for authorization to construct section B of R-3300 which is a 6.916-mile new location phase starting around NC 210 and extending to Sloop Point Loop Road in Pender County. This phase of the project will permanently impact 55.428 acres of non-riparian wetlands, 16.886 acres of riparian wetlands, and 5,756 linear feet of stream channel. This phase would also temporarily impact 0.354 acre of wetlands and 489 linear feet of stream channel during construction.

I have determined that the proposed project modifications described above are not contrary to the public interest and consistent with the 404 (B) (1) and therefore, the DA permit is hereby modified.

**All original conditions in the August 10, 2017 permit remain enforceable with an expiration date of December 31, 2022. New special conditions follow:**

1. All work authorized by this permit shall be performed in strict compliance with the permit plans 1-165 of 165 dated 4/1/2020 and 6/9/2020, and Utility Plans 1-23 of

23 dated 4/1/2020 and 6/9/2020 which are a part of this permit. The Permittee shall ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Any modification to the attached permit plans must be approved by the U.S. Army Corps of Engineers (Corps) prior to any active construction in waters or wetlands.

2. Any rip rap placed in the main flow (thalweg) of any channel along this project must be buried to the natural streambed elevation.
3. In order to compensate for impacts associated with this permit, mitigation shall be provided in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Forms. The requirements of these forms, including any special conditions listed on these forms, are hereby incorporated as special conditions of this permit.

This modification approval will be utilized for future compliance of the project. If you have questions, please contact Brad Shaver of the Wilmington Regulatory Field Office, at telephone (910) 251-4611.

FOR THE COMMANDER

*Monte  
Matthews*  Date: 2020.06.26  
13:24:37 -04'00'

Monte Matthews  
Lead Project Manager  
Wilmington District

Copies Furnished (electronic w/o attachments):

Mr. Mason Herndon, NCDOT  
Ms. Joanne Steenhuis, NCDEQ-DWR  
Ms. Amanetta Somerville, USEPA  
Mr. Gary Jordan, USFWS  
Mr. Travis Wilson, NCWRC  
Ms. Renee Gledhill-Earley, SHPO  
Mr. Monte Matthews, USACE  
Ms. Cathy Brittingham, NC DCM

Mr. Stephen Lane, NC DCM

Ms. Beth Harmon, NC DMS (attached mitigation transfer form)

Mr. Christian Preziosi, NE Bank (attached mitigation transfer form)

Mr. Todd Tugwell, USACE (attached both mitigation tra



DEPARTMENT OF THE ARMY  
WILMINGTON DISTRICT, CORPS OF ENGINEERS  
69 DARLINGTON AVENUE  
WILMINGTON, NORTH CAROLINA 28403

August 7, 2017

Regulatory Division

Action ID. SAW-SAW-2007-01386: U-4751 and R-3300, New Hanover and Pender Counties, North Carolina

Mr. Phillip S. Harris III, P.E., C.P.M.  
North Carolina Department of Transportation  
Natural Environment Section Head  
1548 Mail Service Center  
Raleigh, North Carolina 27699

Dear Mr. Harris:

In accordance with your written request of December 21, 2016, and the ensuing administrative record, enclosed is a copy of a Department of Army (DA) Permit to directly discharge fill material into waters and wetlands along multiple drainages to construct a 5.5 mile six-lane divided roadway (U-4751) on new location from Hwy 17 Business to US 17 By-Pass, New Hanover County, North Carolina.

Any deviation in the authorized work will likely require modification of this permit. If a change in the authorized work is necessary, you should promptly submit revised plans to the Corps showing the proposed changes. You may not undertake the proposed changes until the Corps notifies you that your permit has been modified.

Carefully read your permit. The general and specific conditions are important. Your failure to comply with these conditions could result in a violation of Federal law. Certain significant general conditions require that:

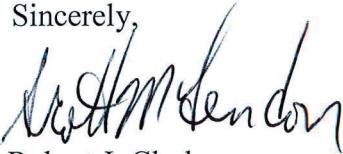
- a. You must complete construction before December 31, 2022.
- b. You must notify this office in advance as to when you intend to commence and complete work.

c. You must allow representatives from this office to make periodic visits to your worksite as deemed necessary to assure compliance with permit plans and conditions.

You should address all questions regarding this authorization to Mickey T. Sugg, at the Wilmington Regulatory Field Office, telephone number 910-251-4811.

Thank you in advance for completing our Customer Survey Form. This can be accomplished by visiting our website at <http://per2.nwp.usace.army.mil/survey.html> and completing the survey on-line. We value your comments and appreciate your taking the time to complete a survey each time you interact with our office.

Sincerely,



*Robert J. Clark*  
Robert J. Clark  
Colonel, US Army  
District Commander

Enclosures

Copies Furnished (w/Special Conditions & Plans):

Chief, Source Data Unit  
Attn: Ms. Sharon Tear  
NOAA/National Ocean Service  
1315 East-West Highway, Room 7316  
Silver Spring, Maryland 20910-3282

U.S. Fish and Wildlife Service  
Attn: Mr. Pete Benjamin  
Fish and Wildlife Enhancement  
Post Office Box 33726  
Raleigh, North Carolina 27636-3726

National Marine Fisheries Service  
Attn: Dr. Ken Riley  
Habitat Conservation Service  
Pivers Island  
Beaufort, North Carolina 28516

U.S. Environmental Protection Agency  
Attn: Ms. Jennifer Derby, Chief  
Wetlands Protection Service – Region IV  
Water Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303

U.S. Environmental Protection Agency  
Attn: Mr. Todd A. Bowers  
Wetlands and Marine Regulatory Section  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8931

North Carolina Department of  
Environmental Quality  
Attn: Mr. Doug Huggett  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, North Carolina 28557

National Marine Fisheries Service  
Attn: Dr. Pace Wilber  
Habitat Conservation Service  
219 Fort Johnson Road  
Charleston, South Carolina 29412-9110

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** North Carolina Department of Transportation-c/o: Mr. Phillip Harris III, P.E., C.P.M.

**Permit No.:** SAW-2007-01386

**Issuing Office:** CESAW-RG-L

**NOTE:** The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

**You are authorized to perform work in accordance with the terms and conditions specified below.**

**Project Description:** The overall project purpose is to directly discharge fill material into waters and wetlands (60.51 acres of non-riparian wetlands and 2,122 linear feet of stream channel) along multiple drainages to construct a 5.5 mile six-lane divided roadway (U-4751). The future year project/second phase (R-3300) would be authorized for construction by modification at a future date.

**Project Location:** (U-4751) on new location from Hwy 17 Business to US 17 By-Pass, New Hanover County, North Carolina.

### **General Conditions:**

1. The time limit for completing the work authorized ends on December 31, 2022. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

**SEE ATTACHED SPECIAL CONDITIONS**

Further Information:

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. **Limits of this authorization.**

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit, unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
for PHILIP S. HARRIS III  
(PERMITTEE)

07-31-2017  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
(DISTRICT ENGINEER) ROBERT J. CLARK  
FOR COLONEL, U.S. ARMY  
DISTRICT COMMANDER

10 Aug 2017  
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

---

(*TRANSFeree*)

---

(*DATE*)

\*U.S. GOVERNMENT PRINTING OFFICE: 1986 - 717-425

## **SPECIAL CONDITIONS (Action ID 2007-01386)**

In accordance with 33 U.S.C. 1341(d), all conditions of the North Carolina Division of Water Resources 401 Water Quality Certification #004116 and the North Carolina Division of Coastal Management Consistency Certification (CD17-018) are incorporated as part of the Department of the Army permit.

NCDOT must adhere to Green Sheet Project Commitments as presented in the September 2014 State Record of Decision incorporated by reference.

### **1. Phased Permits:**

A. This permit only authorizes work on U-4751 of TIP U-4751/R-3300 (Military Cutoff-Hampstead Bypass). Construction of R-3300 of TIP U-4751/R-3300 shall not commence until final design has been completed for those sections, the permittee has minimized impacts to waters and wetlands to the maximum extent practicable, and any modifications to the plans, and a compensatory mitigation plan, have been approved by the US Army Corps of Engineers (USACE).

B. The modification request for future R-3300 will be recirculated under Public Notice to gather relevant comments related to finalized hydraulic structures and other modifications realized during final plan preparation. NCDOT is responsible for providing updated mailing list labels along with the final plans for R-3300 at the time of modification request.

### **2. Plans:**

A. The permittee will ensure that the construction design plans for this project do not deviate from the permit plans. Written verification shall be provided that the final construction drawings comply with the attached permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the USACE, Wilmington Regulatory Field Office prior to any active construction in waters or wetlands.

B. All work authorized by this permit must be performed in strict compliance with the plans dated 5/9/2017, received on 6/1/2017 entitled U-4751, permit drawings 1-83 of 83, which are a part of this permit. Any modification to these plans must be approved by the USACE prior to implementation.

### **3. Pre-Construction Meetings:**

A. The permittee shall schedule and attend a pre-construction meeting between its representatives, the contractors representatives, and the USACE, Wilmington Field Office, NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all the terms and conditions contained with this Department of the Army Permit. The permittee shall provide the USACE, Wilmington Field Office, NCDOT Project Manager, with a copy of the final permit plans at least two weeks

prior to the pre-construction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The permittee shall schedule the pre-construction meeting for a time frame when the USACE, NDCDM, and NCDWR Project Managers can attend. The permittee shall invite the USACE, NDCDM, and NCDWR Project Managers a minimum of thirty (30) days in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.

#### 4. Threatened and Endangered Species:

A. This USACE permit does not authorize you to take an endangered species, in particular *Picoides borealis* (Red-cockaded woodpecker). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., a Biological Opinion (BO) under the ESA, Section 7, with "incidental take" provisions with which you must comply). The U.S. Fish and Wildlife Service (USFWS) BO, dated July 21, 2016, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this USACE permit is conditional upon your compliance with all the mandatory terms and conditions associated with incidental take of the BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your USACE permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

B. This USACE permit does not authorize you to take a threatened or species, in particular, the Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., a Biological Opinion (BO) under the ESA, Section 7, with "incidental take" provisions with which you must comply). The U.S. Fish and Wildlife Service's (USFWS's) Programmatic BO titled "Northern Long-eared Bat (NLEB) Programmatic Biological Opinion for North Carolina Department of Transportation (NCDOT) Activities in Eastern North Carolina (Divisions 1-8)," dated March 25, 2015, and adopted on April 10, 2015, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that are specified in the BO. Your authorization under this USACE permit is conditioned upon your compliance with all the mandatory terms and conditions (incorporated by reference into this permit) associated with incidental take of the BO. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and would also constitute non-compliance with your USACE permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.

#### 5. Maintain circulation and flow of waters

A. Unless otherwise requested in the applicant's application and depicted on the approved work plans, culverts greater than 48 inches in diameter will be buried at least one foot

below the bed of the stream. Culverts 48 inches in diameter and less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain existing channel slope. The bottom of the culvert must be placed at a depth below the natural stream bottom to provide for passage during drought or low flow conditions. Destabilizing the channel and head cutting upstream should be considered in the placement of the culvert.

B. Measures will be included in the construction/installation that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed opening should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gauge data, if available. In the absence of such data, bankfull flow can be used as a comparable level.

C. Except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within waters or wetlands or to reduce the reach of waters and wetlands.

#### 6. Sediment Erosion Control:

A. During the clearing phase of the project, heavy equipment must not be operated in surface waters or stream channels. Temporary stream crossings will be used to access the opposite sides of stream channels. All temporary diversion channels and stream crossings will be constructed of non-erodible materials. Grubbing of riparian vegetation will not occur until immediately before construction begins on a given segment of stream channel.

B. No fill or excavation impacts for the purposes of sedimentation and erosion control shall occur within jurisdictional waters, including wetlands, unless the impacts are included on the plan drawings and specifically authorized by this permit.

C. The permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades on those areas, prior to project completion.

D. The permittee shall use appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" to ensure compliance with the appropriate turbidity water quality standard. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to ensure compliance with the appropriate turbidity water quality standards. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the

Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4). Adequate sedimentation and erosion control measures must be implemented prior to any ground disturbing activities to minimize impacts to downstream aquatic resources. These measures must be inspected and maintained regularly, especially following rainfall events. All fill material must be adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands.

E. Design Standards for Sensitive Watersheds must be implemented during project construction for all tributaries of streams within the study area designated as HQW or ORW due to the classification of their receiving waters

F. The permittee shall install barrier fencing around all wetlands that are not to be disturbed to make them readily visible and prevent construction equipment from inadvertently entering or disturbing these areas.

## 7. Temporary Fills

A. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

## 8. Borrow and Waste

A. To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent waters and wetlands, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material or to dispose of dredged, fill or waste material. The permittee shall provide the USACE with appropriate maps indicating the locations of proposed borrow or waste sites as soon as such information is available. The permittee will coordinate with the USACE before approving any borrow or waste sites that are within 400 feet of any stream or wetland. All jurisdictional wetland delineations on borrow and waste areas shall be verified by the USACE and shown on the approved reclamation plans.

B. Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used. Soils used for fill shall not be contaminated with any toxic substance in concentrations governed by Section 307 of the Clean Water Act.

## 9. Project Maintenance

A. The permittee shall advise the USACE in writing prior to beginning work authorized by this permit and again upon completion of the work authorized by this permit.

B. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this

project with a copy of this permit. A copy of this permit, including all conditions, shall be available at the project site during construction and maintenance of this project.

C. The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the water or wetland to its pre-project condition.

D. The permittee shall take measures to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with any water in or entering into water of the United States. Water inside coffer dams or casings that has been in contact with concrete shall only be returned to water of the United States when it no longer poses a threat to aquatic organisms (i.e. concrete is set and cured).

## 10. Mitigation

A. In order to compensate for impacts associated with this permit, mitigation shall be provided in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Form. The requirements of this form, including any special conditions listed on this form, are hereby incorporated as special conditions of this permit authorization.

B. The attached transfer forms cover two separate sources for mitigation. The non-riparian wetland mitigation will come from the Northeast Cape Fear Umbrella Mitigation Bank (total need of 121.57 acre credits) and stream credits will come from the North Carolina Division of Mitigation Services (total need of 3,041 linear feet credits).

## 11. Cultural Resources

A. NCDOT shall abide by all stipulations identified in the Memorandum of Agreement between the United States Army Corps of Engineers and the North Carolina State Historic Preservation Officer, signed 29 January 2015 and filed by the Advisory Council on April 15, 2016, copy attached.

B. While accomplishing the authorized work, if the permittee discovers any previously unknown cultural resources, the USACE will be immediately notified so that required coordination can be initiated with the North Carolina Division of Cultural Resources.

## 12. Enforcement

A. All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Wilmington Regulatory Field Office, c/o Mr. Brad Shaver, Field office address, and by telephone at: 910-251-4611. The Permittee shall reference the following permit number, SAW-2007-01386, on all submittals.

B. Violation of these conditions or violation of Section 404 of the Clean Water Act of Section 10 of the Rivers and Harbors Act must be reported in writing to the Wilmington District U.S. Army Corps of Engineers within 24 hours of the permittee's discovery of the violation.

C. A representative of the USACE will periodically and randomly inspect the work for compliance with these conditions. Deviations from these procedures may result in an administrative financial penalty and/or directive to cease work until the problem is resolved to the satisfaction of the USACE.

---

ROY COOPER  
*Governor*

ELIZABETH S. BISER  
*Secretary*

S. DANIEL SMITH  
*Director*



NORTH CAROLINA  
*Environmental Quality*

January 20, 2022

Mason Herndon, Project Development  
Environmental Engineer  
NC DOT Division 3  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for the proposed Hampstead Bypass (Beane Wetland Mitigation Site) in New Hanover County, State Project No. 40237.1.2, TIP R-3300.  
NCDWR Project No. 20161268 v. 5

Dear Mr. Herndon:

Attached hereto is a modification of Certification No. WQ004116 issued to The North Carolina Department of Transportation (NCDOT) dated June 5, 2017 and modified on March 1, 2019, June 17, 2020, October 22, 2021.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

DocuSigned by:  
Amy Chapman  
S. Daniel Smith, Director  
Division of Water Resources

Attachments:

Electronic copy only distribution:

Brad Shaver, US Army Corps of Engineers, Wilmington Field Office  
Mason Herndon, NC Department of Transportation  
Chris Rivenbark, NC Department of Transportation  
Amanetta Somerville, US Environmental Protection Agency  
Gary Jordan, US Fish and Wildlife Service  
Travis Wilson, NC Wildlife Resources Commission  
Stephen Lane, NC Division of Coastal Management  
Jason Elliott, NCDOT, Natural Environment Section (only if on-site mitigation)  
Beth Harmon, Division of Mitigation Services (only if DMS Mitigation proposed)  
Hannah Sprinkle, NC Division of Water Resources Wilmington Regional Office  
File Copy



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000

**Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act  
with ADDITIONAL CONDITIONS**

**THIS CERTIFICATION** is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Resources (NCDWR) Regulations in 15 NCAC 2H .0500. The project shall be constructed pursuant to the revised modification request dated received January 19, 2022. The authorized impacts are as described below:

**Stream Impacts in the Cape Fear River Basin**

Site	Type	Permanent (ac)	Temporary (ac)
T-2	Fill	---	0.047
T-4	Stream Plugs	---	0.106
T- 5/16/FSH	Fill	---	0.059
T-5/19	Fill	---	0.583
T-10/18/21	Fill	---	0.833
T-11	Fill	---	0.926
T-12	Fill	---	0.474
T-13	Fill	---	0.201
T-14/15	Fill	---	0.635
T-16/17	Fill	---	1.390
T-20	Fill	---	0.203
Total			5.506

**Wetland Impacts in the Cape Fear River Basin**

Site	Activity	Permanent Impacts (ac)	Temporary Impacts (ac)
FWC1	Clearing & Grubbing	---	3.682
FWC2	Clearing & Grubbing	---	18.951
FWC3	Clearing & Grubbing	---	0.001
FWD	Clearing & Grubbing	---	31.625
MWA	Clearing & Grubbing	---	24.122
MWI	Clearing & Grubbing	---	0.099
TWA	Clearing & Grubbing	---	0.001
Total			78.481
FWC4	Grading	---	0.017
MWC2	Grading	---	0.002
MWG	Grading	---	0.080
Total			0.099
Total Wetland Impacts			78.58

The application provides adequate assurance that the discharge of fill material into the waters of the Cape Fear River Basin in conjunction with the proposed activity will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your modified application dated received January 19, 2022. Should your project change, you are required to notify NCDWR and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional impacts, for this project (now or in the future) are required the applicant should contact NCDWR as a modification of this Certification may be required. For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

**Condition(s) of Certification:**

1. This modification is applicable only to the additional proposed activities for the R-3300 Bean Mitigation Site. All of the authorized activities and conditions associated with the original Water Quality Certification dated June 5, 2017 and subsequent modifications still apply except where superseded by this certification.
2. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 permit.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission.  
The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919) 431-3000, Facsimile: (919) 431-3100

A copy of the petition must also be served on DEQ as follows:

Mr. Bill F. Lane, General Counsel  
Department of Environmental Quality  
1601 Mail Service Center

This the 20<sup>th</sup> day of January, 2022

DIVISION OF WATER RESOURCES

DocuSigned by:  
  
9C9886312DCD474...  
S. Daniel Smith  
Director

WQC No. 004116



NORTH CAROLINA  
Environmental Quality

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

S. DANIEL SMITH

Director

NCDWR Project No.: \_\_\_\_\_ County: \_\_\_\_\_

Applicant: \_\_\_\_\_

Project Name: \_\_\_\_\_

Date of Issuance of 401 Water Quality Certification: \_\_\_\_\_

#### Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401 Transportation Permitting Unit, North Carolina Division of Water Resources, 1617 Mail Service Center, Raleigh, NC, 27699-1617. This form may be returned to NCDWR by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

#### Applicant's Certification

I, \_\_\_\_\_, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### Agent's Certification

I, \_\_\_\_\_, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### Engineer's Certification

\_\_\_\_\_ Partial      \_\_\_\_\_ Final

I, \_\_\_\_\_, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the construction of the project for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature \_\_\_\_\_ Registration No. \_\_\_\_\_  
Date \_\_\_\_\_



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000

ROY COOPER

*Governor*

ELIZABETH S. BISER

*Secretary*

S. DANIEL SMITH

*Director*



October 26, 2021

Pender County

NCDWR Project No. 20161268 v.4

TIP R-3300B

Mason Herndon, Project Development  
Environmental Engineer  
NC DOT Division 3  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Subject: Modification of 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for the Proposed Hamstead Bypass in Pender County, TIP R-3300B.  
NCDWR Project No. 20161268 v.4

Dear Mr. Herndon:

Attached hereto is a modification of Certification No. 004116 issued to The North Carolina Department of Transportation (NCDOT) dated June 5, 2017 and modified on March 1, 2019 and June 17, 2020. This modified certification replaces the certification issued on October 22, 2021.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

DocuSigned by:

Amy Chapman

9C9886312DCD474...

S. Daniel Smith

Director

Electronic copy only distribution:

Brad Shaver, US Army Corps of Engineers, Wilmington Field Office  
Chris Rivenbark, NC Department of Transportation  
Gary Jordan, US Fish and Wildlife Service  
Travis Wilson, NC Wildlife Resources Commission  
Cathy Brittingham, NC Division of Coastal Management  
Stephen Lane, NC Division of Coastal Management  
Beth Harmon, Division of Mitigation Services  
Hannah Sprinkle, NC Division of Water Resources Wilmington Regional Office  
File Copy



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000

**Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act  
with ADDITIONAL CONDITIONS**

**THIS CERTIFICATION** is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Resources (NCDWR) Regulations in 15 NCAC 2H .0500. The project shall be constructed pursuant to the revised modification request dated received October 21, 2021. The authorized impacts are as described below:

**Stream Impacts in the Cape Fear and White Oak River Basin**

Site	Permanent (linear ft)	Temporary (linear ft)	Total Stream Impact (linear ft)
Original approved impacts at Site 31	122	35	184
Impacts approved with this modification at Site 31	115	62	150
Difference	-7	+27	20

**Wetland Impacts in the Cape Fear and White Oak River Basin**

Site	Fill permanent (ac)	Fill temporary (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Total Wetland Impact (ac)
Original approved impacts for Service Road 8 (SR 8) (Site 19)	35.792	0.0	0.237	3.772	0.0	39.801
Impacts approved with this modification for Service Road 8 (SR 8) (Site 19)	33.845	0.0	0.237	3.717	0.0	37.799
Difference	-1.947	0.0	0.0	-0.055	--	-2.002

The application provides adequate assurance that the discharge of fill material into the waters of the Cape Fear and White Oak River Basin in conjunction with the proposed activity will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your modified application dated received October 21, 2021. Should your project change, you are required to notify NCDWR and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional impacts, for this project (now or in the future) are required the applicant should contact NCDWR as a modification of this Certification may be required. For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.



**Condition(s) of Certification:**

1. This modification is applicable only to the additional proposed activities. All of the authorized activities and conditions associated with the original Water Quality Certification dated June 5, 2017 and subsequent modifications still apply except where superseded by this certification.
2. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 permit.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission.

The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919) 431-3000, Facsimile: (919) 431-3100

A copy of the petition must also be served on DEQ as follows:

Mr. Bill F. Lane, General Counsel  
Department of Environmental Quality  
1601 Mail Service Center

This the 26<sup>th</sup> day of October, 2021

DIVISION OF WATER RESOURCES

DocuSigned by:

*Amy Chapman*

9C9886312DCD474...

S. Daniel Smith  
Director

WQC No. 004116



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000

ROY COOPER  
*Governor*  
MICHAEL S. REGAN  
*Secretary*  
S. DANIEL SMITH  
*Director*



June 17, 2020

Mason Herndon, Environmental Program Supervisor  
NC DOT Division 3  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for the Proposed Hampstead Bypass on a new alignment in Pender County, State Project No. 40237.1.2, TIP No. R-3300B.  
NCDWR Project No. 20161268 v. 3

Dear Mr. Herndon:

Attached hereto is a modification of Certification No. WQ 004116 issued to The North Carolina Department of Transportation (NCDOT) dated June 5, 2017 and modified on March 1, 2019.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

DocuSigned by:  
  
Amy Chapman  
9C9886312DCD474, Director  
Division of Water Resources

Attachment

Electronic copy only distribution:

Brad Shaver, US Army Corps of Engineers, Wilmington Field Office  
Chris Rivenbark, NC Department of Transportation  
Gary Jordan, US Fish and Wildlife Service  
Travis Wilson, NC Wildlife Resources Commission  
Cathy Brittingham, NC Division of Coastal Management  
Beth Harmon, Division of Mitigation Services  
Joanne Steenhuis, NC Division of Water Resources Wilmington Regional Office



**Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS**

**THIS CERTIFICATION** is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Resources (NCDWR) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to permanently impact an additional 72.314 acres of jurisdictional wetlands, 1.491 acres of open waters and 6212 linear feet of jurisdictional streams (Intermittent : 1552 lf and Perennial 4204 lf) in Pender County. The project shall be constructed pursuant to the modification dated received April 7, 2020 and subsequent information received on June 10, 2020, June 11, 2020, June 15, 2020 and June 17, 2020. The authorized impacts are as described below:

**Stream Impacts in the \*Cape Fear and White Oak River Basins**

Site	Permanent Fill in Intermittent Stream (linear ft)	Temporary Fill in Intermittent Stream (linear ft)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	**Bank Stabilization (Linear Feet)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
*Site 3 609+50 to 618+70-L1			419	36		455	419
*Site 3 Inlet Bank Stabilization					33		
*Site 3 611+98 to 612+68-L1-LT Outlet ditch bank stabilization					56		
*Outlet Bank Stabilization					38		
*Site 3 53+88 to 54+12-Y30-LT				25		25	
*Site 3 54+51 to 56+42-Y30-LT			91	10		101	91
*Site 3 57+15 to 58+74-Y30DET				125		125	
*Site 3 13+40 to 19+59-Y30RPA			441	55		496	441
*Site 3 15+01 to 15+56-Y30RPA-LT				12	29	12	
*Site 3 26+15 to 26+49-SR6-LT Outlet Channel				14		14	
*Site 3 Outlet Bank Stabilization*					14		
*Site 3 18+22 to 20+14-Y30RPD			243			243	243
*Site 3 19+69 to 20+05-Y30RPD-LT				25		25	
*Site 3 Inlet Bank Stabilization					25		
*Site 3 Outlet Bank Stabilization					22		

*Site 5 638+99 to 642+01-L1	172		192			364	
*Site 6 641+99 to 643+06-L1			355	31		386	355
*Site 7 645+01 to 666+60-L1			1768	52		1820	1768
*Site 7 Outlet Bank Stabilization*					34		
*Site 7 18+94 to 20+52-Y38			226			226	
*Site 7 19+57 to 20+40-Y38-RT Flood Plain Bench ****				10	32	10	
*Site 13 709+67 to 715+63-L1			228			228	228
*Site 13 712+83 to 713+95-L1-RT			78	14		92	78
*Site 13 711+78 to 712+35-L1-LT Outlet Channel				12		12	
*Site 13 Flood Plain Bench**** Outlet bank Stabilization					42		
Site 19 769+74 to 854+07-L1	773					773	
Site 19 18+01 to 22+37-Y32	484					484	
Site 21 23+66 to 25+54-Y19	97					97	
Site 21 24+82 to 25+32-Y19 Outlet Channel		33					
*Site 22 10+17 to 12+28-SR5			163			163	
Site 31 LLT 320+33 LT	26					26	
Site 31 LLT 320+33 LT Channel Realignment ***	39***	19				19	
Site 31 LLT 320+33 RT Bank Stabilization -rip rap pad					20		
Site 31 LLT 320+33 RT Channel Realignment***			37***	16		16	
<i>Total</i>	1552	52	4204	437	345	6212	3623

**Total Stream Impacts for Project: 6212 linear feet (Intermittent : 1552 lf and Perennial 4204 lf)**

**\*\*Bank Stabilization does Not count towards Impacts**

**\*\*\* Channel Realignment impacts not included as impacts**

**\*\*\*\* Flood Plain Benches do not impact the thalweg**

**Intermittent Streams do not count towards impacts**

**Permanent Stream impacts in the Cape Fear Basin = 3623 lf requiring mitigation**



## Wetland Impacts in the \*Cape Fear and White Oak River Basins

Site	Fill (ac)	Fill (temporary) (ac)	Excavation (ac)	Mechanized Clearing (ac)	**Hand Clearing (ac)	Total Wetland Impact (ac)
*Site 1 584+18 to 601+51 L1	5.436		0.005	0.699		6.14
*Site 1 5+13 to 5+71-Y30RPB-LT			0.015	0.016		0.031
*Site 1 13+27 to 18+16-Y30RPB	0.883			0.118		1.001
*Site 1 19+30 to 26+02-Y30RPC	1.190		0.025	0.080		1.295
*Site 1 27+65 SR4				0.004		0.004
*Site 1 20+90 to 21+60 SR5	0.008		0.028	0.027		0.063
*Site 1 43+83 to 44+59-Y30DET-LT	0.038			0.003		0.041
*Site 2 41+43 to 43+15- Y30-RT	0.141		0.022			0.163
*Site 3 609+50 to 618+70-L1	1.754		0.002	0.089	0.210	1.845
*Site 3 611+72 to 611+91-L1-RT Inlet Channel			0.004			0.004
*Site 3 611+98 to 612+68-L1-LT				0.005	0.015	0.005
*Site 3 45+87 to 47+20-Y30-LT	0.180		0.035	0.024		0.239
*Site 3 53+88 to 54+12-Y30-LT			0.013	0.009		0.022
*Site 3 54+51 to 56+42 -Y30-LT			0.082			0.082
*Site 3 56+99 to 57+43-Y30-RT	0.008					0.008
*Site 3 57+15 to 58+74-Y30DET		0.149			0.010	0.149
*Site 3 13+40 to 19+59-Y30RPA	1.694		0.045	0.188		1.927
*Site 3 15+01 to 15+56 -Y30RPA-LT			0.020			0.020
*Site 3 26+15 to 26+49-SR6-LT			0.005			0.005
*Site 3 18+22 to 20+14-Y30RPD	0.470			0.064	0.026	0.534
*Site 3 19+69 to 20+05-Y30RPD-LT			0.004			0.004
*Site 3 18+99 to 19+24-Y30RPD-RT			0.012			0.012
*Site 4 623+04 to 632+02-L1	1.812			0.131		1.943
*Site 4 633+70 to 634+01-L1-LT				0.005		0.005
*Site 5 638+99 to 642+01-L1	0.065					0.065
*Site 7 645+01 to 666+60-L1	4.805		0.249	0.380		5.434

*Site 7 Outlet Channel			0.062			0.062
*Site 7 18+94 to 20+52-Y38	0.072		0.033	0.018		0.123
*Site 7 19+83-Y38-RT			0.009			0.009
*Site 7 19+38 to 20+09-Y38-LT				0.007		0.007
*Site 7 19+57 to 20+40Y38-RT			0.062	0.008		0.070
*Site 7 18+94 to 19+38-Y38			0.033	0.018		0.051
*Site 7 11+08 to 12+48-Y38DET		0.110			0.020	0.110
*Site 8 673+01 to 673+68-L1-RT	0.071			0.012		0.083
*Site 9 673+18 to 689+67-L1-LT	0.087			0.041		0.128
*Site 11 695+36 to 695+47-L1-LT				0.001		0.001
*Site 13 709+67 to 715+63-L1	2.160			0.114		2.274
*Site 13 712+83 to 713+95-L1-RT			0.024	0.015		0.039
*Site 13 711+78 to 712+35-L1-LT			0.021	0.010		0.031
*Site 15 730+72 to 743+68-L1	4.898		0.060	0.228		5.186
*Site 15 15+72 to 22+37-SR7	1.059		0.014	0.193		1.266
*Site 15 15+91 to 16+09-SR7-RT			0.012			0.012
*Site 16 18+25 to 21+01-Y31-RT	0.066			0.009		0.075
*Site 16 18+74 to 21+34-Y31DET		0.082			0.024	0.082
*Site 17 18+38 to 19+05-Y31-LT	0.002			0.007		0.009
*Site 17 26+86 to 28+87-SR7	0.190		0.030	0.022		0.242
*Site 18 45+47 to 47+66-SR7	0.252			0.043		0.295
*Site 18 766+70 to 769+26-L1	0.534			0.020		0.554
*Site 19 769+74 to 854+07-L1	23.110		0.073	3.036		26.219
*Site 19 48+38 to 56+57-SR7	1.002			0.188		1.19
*Site 19 14+42 to 19+70-SR8	0.359			0.055		0.414
Site 19 769+74 to 854+07-LT	3.697					3.697
Site 19 7+45 to 16+31-Y32RPB1	2.075			0.156		2.231
Site 19 18+01 to 22+37-Y32	1.094		0.054	0.002		1.15
Site 19 29+50 to 39+40-Y32	4.455		0.110	0.335		4.90
Site 21 23+66 to 25+54-Y19	0.372			0.020		0.392
Site 21 25+09-Y19			0.013			0.013

Site 21 24+82 to 25+32-Y19			0.033	0.010		0.043
*Site 22 10+17 to 12+28-SR5	0.209		0.002	0.009		0.220
*Site 24 16+83 to 18+03-Y30DET-RT		0.013			0.012	0.013
*Site 25 46+69 to 46+76-Y31DET-RT					0.001	
Site 26 Y19 50+00 RT				0.005		0.005
Site 28 L279+29 to 286-56 RT	0.307			0.085		0.392
Site 29 L293+08 to 293+80 RT	0.016			0.003		0.019
Site 30 L 301+00 RT	0.005			0.001		0.006
Site 32 13+45 to 14+89-Y43-LT				0.014		0.014
*Site U3 23+91 to 26+36-SR6-LT					0.171	
*Site U3 19+29 to 22+74-Y30RPD-LT					0.143	
*Site U3 10+57 to 13+41-Y30RPD-LT					0.192	
*Site U3 52+05 to 56+54-Y30-LT					0.257	
*Site U17 19+10 to 19+16-Y31-LT					0.060	
*Site U24 16+77 to 16+97-Y30-RT					0.019	
Site U28 289+27 to 286+83-I-RT					0.322	
Site U29 293+53 to 293+90-I-RT					0.006	
Site U33 219+74 to 220+73-L-RT					0.081	
Site U34 34+21 to 34+86-SR6-LT					0.014	
Site U35 279+95 to 280+81-L-LT					0.080	
Site U35 281+62 to 283+85-L-LT					0.178	
Site U35 284+33 to 286+01-L-LT					0.147	
<b>Total</b>	64.576	0.354	1.211	6.527	<b>1.988</b>	72.668

**Total Permanent Wetland Impacts for Project : 72.314acres Temp Impacts: 0.354 acre**

**\*\* Hand Clearing does not count towards impacts**

**Wetland impacts in the CFB: 59.452 ac Temp impacts 0.354 ac**

**Wetland impacts in the WOB: 12.862 ac Temp impacts 0 ac**



**Open Water Impacts in the \*Cape Fear and White Oak River Basin**

<b>Site</b>	<b>Permanent Fill in Open Waters (ac)</b>	<b>Temporary Fill in Open Waters (ac)</b>	<b>Total Fill in Open Waters (ac)</b>
*Site 10 676+64 to 679+37-L1 Pond	0.633		0.633
*Site 12 700+69 to 702+88-L1 Pond	0.416		0.416
*Site 14 724+44 to 725+96-L1	0.100	0.007	0.107
*Site 14 724+48 to 724+73-L1-RT	0.007		0.007
*Site 14 17+51 to 18+26-Y31RPC	0.035	0.006	0.041
*Site 14 17+57 to 17+87-Y31RPC	0.008		0.008
*Site 23 603+49 to 604+94-L1-RT Pond	0.279		0.279
<b>Total</b>	<b>1.478</b>	<b>0.013</b>	<b>1.491</b>

**Total Open Water Impact for Project: 1.491acres.**

The application provides adequate assurance that the discharge of fill material into the waters of the Cape Fear and White Oak River Basins in conjunction with the proposed development will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your modified application dated received April 7, 2020 and subsequent information received on June 10, 2020, June 11, 2020, June 15, 2020 and June 17, 2020. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated June 5, 2017 and modified on March 1, 2019 still apply except where superseded by this certification. Should your project change, you are required to notify the NCDWR and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter and is thereby responsible for complying with all the conditions. If any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 300 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit (SAW-2007-1386).

**Conditions of Certification:**

1. This modification is applicable only to the additional proposed activities. All of the authorized activities and conditions of certification associated with the original Water Quality Certification dated June 5, 2017 and subsequent modifications dated March 1, 2019 still apply except where superseded by this certification.
2. The use of rip-rap placed for stream channel stabilization shall be buried to the natural streambed elevation in stream channels in such a manner that it does not impede aquatic life passage or change the dimension, pattern and profile of the stream. [15A NCAC 02H.0506(b)(2)]



3. Erosion control matting in riparian areas shall not contain a nylon mesh grid which can impinge and entrap small animals. Matting should be secured in place by staples, stakes, or wherever possible live stakes of native trees. Riparian areas are defined as a distance 25 feet from top of stream bank. [15A NCAC 02B.0224, .0225]
4. The NCDOT Division Environmental Officer/Supervisor or Environmental Assistant will conduct a pre-construction meeting with all appropriate staff to ensure that the project supervisor and essential staff understand the potential issues with stream and pipe alignment at the permitted site. NCDWR staff shall be invited to the pre-construction meeting. [15A NCAC 02H.0506(b)(2) and (b)(3)]
5. Compensatory mitigation for impacts for 72.314 acres wetlands is required. Of this 12.862 acres should be in the White Oak Basin, (3.33 acres Riparian and 9.532 acres Non-Riparian), 59.452 acres in the Cape Fear Basin (13.534 acres Riparian and 45.918 acres Non-Riparian). We understand that you have chosen to perform compensatory mitigation for impacts to wetlands through the North East Cape Fear Umbrella Mitigation Bank (NECFUMB), and that the NECFUMB has agreed to implement the mitigation for the project. NECFUMB has indicated in letters dated December 6, 2016 (wetlands already purchased for the 20161268 V1 section of this project) and May 21, 2020 that they will assume responsibility for satisfying the Federal Clean Water Act compensatory mitigation requirements for the above-referenced project.
6. Compensatory mitigation for 3623 linear feet of impact to streams in the Cape Fear Basin is required. We understand that you have chosen to perform compensatory mitigation for impacts to streams through the North Carolina Division of Mitigation Service (DMS) (formerly NCEEP), and that the DMS has agreed to implement the mitigation for the project. The DMS has indicated in a letter dated June 17, 2020 that they will assume responsibility for satisfying the Federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the DMS Mitigation Banking Instrument signed July 28, 2010.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 or CAMA permit.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission.

The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919) 431-3000, Facsimile: (919) 431-3100



A copy of the petition must also be served on DEQ as follows:

Mr. Bill F. Lane, General Counsel  
Department of Environmental Quality  
1601 Mail Service Center  
Raleigh, NC 27699-1601

This the 17th day of June 2020

DIVISION OF WATER RESOURCES

DocuSigned by:

*Amy Chapman*

9C9886312DCD474...  
S. Daniel Smith, Director

WQC No. WQ 004116





ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

S. JAY ZIMMERMAN  
*Director*

June 5, 2017

Mr. Philip S. Harris, III, P.E., CPM  
Natural Environment Section Head  
Project Development and Environmental Analysis  
North Carolina Department of Transportation  
1598 Mail Service Center  
Raleigh, North Carolina, 27699-1598

Subject: 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with  
ADDITIONAL CONDITIONS for the proposed extension to Military Cutoff (SR 1409) and US 17  
Hampstead Bypass in New Hanover and Pender Counties, TIP Nos. U-4751 and R-3300 (respectively).  
NCDWR Project No.20161268

Dear Mr. Harris:

Attached hereto is a copy of Certification No. WQ004116 issued to The North Carolina Department of Transportation (NCDOT) dated June 5, 2017.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads "S. Jay Zimmerman".

S. Jay Zimmerman, Director  
Division of Water Resources

Electronic copy only distribution:

Brad Shaver, US Army Corps of Engineers, Wilmington Field Office  
Mason Herndon, Division 3 Environmental Officer  
Rodger Rochelle, NC Department of Transportation  
Chris Rivenbark, NC Department of Transportation  
Dr. Cynthia Van Der Wiele, US Environmental Protection Agency  
Gary Jordan, US Fish and Wildlife Service  
Travis Wilson, NC Wildlife Resources Commission  
Stephen Lane, NC Division of Coastal Management  
Jason Elliott, NCDOT, Natural Environment Section  
Beth Harmon, Division of Mitigation Services  
Joanne Steenhuis, NC Division of Water Resources Wilmington Regional Office  
File Copy

Nothing Compares

State of North Carolina | Environmental Quality  
1617 Mail Service Center | Raleigh, North Carolina 27699-1617

**401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS**

**THIS CERTIFICATION** is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Resources (NCDWR) Regulations in 15 NCAC 2H .0500 and 15A NCAC 2B. This certification authorizes the NCDOT to impact 60.52 acres of jurisdictional wetlands, 8.27 acres of open waters and 1,891 linear feet of jurisdictional streams in New Hanover and Pender Counties. The project shall be constructed pursuant to the application dated received December 21, 2016. 2017 and subsequent information received on May 30, 2017. No impacts to R-3300 are being authorized at this time. The authorized impacts are as described below:

**Stream Impacts in the Cape Fear River Basin**

Permit Drawing Site Number	Station From/To	Permanent Fill in Intermittent Stream (linear ft)	Temporary Fill in Intermittent Stream (linear ft)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear feet)	Stream Impacts Requiring Mitigation (linear ft)
10	117+49-L-LT & RT			373	201	574	373
15	151+41-L-RT			303	58	361	303
18	166+73-L-LT&RT	231	19			250	0
25	199+05-L-LT&RT			251	16	267	251
27	205+35-211+16-L LT&RT			544	46	590	544
27 Streambank				14		14	14
29	212+90-213+70-L-LT&RT			34	46	80	34
32	214+85-L-RT			36	33	69	36
34	223+72.58-224+45L-RT			32	37	69	32
36	42+74-42+78 Y8RPDB LT&RT			200	56	256	200
36 streambank				41		41	41
38	40+46-Y8-LT			43	10	53	43
40	18+68 Y18-LT			20		20	20
Total for U-4751		231	19	1,891	503	2,644	1,891
R-3300	Preliminary Proposed Impacts	3,167		8,733		11,900	8,733
<b>TOTAL:</b>		<b>3,398</b>	<b>38</b>	<b>10,624</b>	<b>503</b>	<b>14,544</b>	<b>10,624</b>

**Total Stream Impact for U-4751: 1,891 linear feet**

**Wetland Impacts in the Cape Fear River Basin\* (Site 1 is in White Oak River Basin)**

Permit Drawing Site Number	Station From/To	Wetland Type	Fill (Permanent) (ac)	Fill (temporary) (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Total Wetland Impact (ac)
1*	27+77-28+11-L-RT	NR	0.002			0.009		0.01
1a*	11+15-15+20 Y1RPD LT&RT	NR	1.114			0.097		1.21
2	20+16-24+68 Y1RPB LT&RT	NR	0.257		0.054	0.024		0.34
3	52+3-63+29-L-LT&RT	NR	5.02			0.256		5.28
4	63+20-77+3-L-LT&RT	NR	6.02			0.302		6.32
5	84+90-85+68-L-LT	NR				0.0001		0.00
15	15+41-L-RT	NR	0.006		0.062	0.023		0.09
16	151+41-165+59-L-LT&RT	NR	5.715			0.314		6.03
19	165+51-168+79-L-LT&RT	NR	0.506			0.011		0.52
21	169+92-180+39-L-LT&RT	NR	4.087			0.312		4.40
23	177+13-198+17-L-LT&RT	NR	6.425		0.018	0.4		6.84
24	27+55-31+96 SR4-LT	NR	0.028			0.043		0.07
26	15+94-29+38 Y8RPDB	NR	10.827			1.159		11.99
28	208+35-214+86-L-LT&RT	NR	4.604		0.006	0.511		5.12
33	216+46-225+15-L-LT&RT	NR	5.759			0.424		6.18
37	4+04.6-62+90 Y8RPCA LT&RT	NR	4.966		0.051	0.967		5.98
39	112+37-120+65 Y8 LT	NR	0.045			0.082		0.13
41	37+46-39+65 Y8 LT	NR				0.01		0.01
Total for U-4751			55.38	0.00	0.19	4.94	0.00	60.52
R-3300	Preliminary Proposed Impacts		155.86					155.86
<b>Total</b>			<b>211.24</b>	<b>0.00</b>	<b>0.19</b>	<b>4.94</b>	<b>0.00</b>	<b>216.38</b>

Total Wetland Impact for U-4751: 60.52 acres.

**Open Water Impacts in the Cape Fear River Basin \*(Site 1 is in the White Oak River Basin)**

Permit Drawing Site Number	Station Number From/To	Permanent Fill in Open Waters (ac)	Temporary Fill in Open Waters (ac)	Total Fill in Open Waters (ac)
1b*	15+20-15+29 -Y1RPD LT&RT	0.03	0.01	0.03
6	110+42-L LT&RT	0.21	0.03	0.23
6a Streambank		0.01		0.01
7	14+05 Y4- LT&RT	0.16		0.16
8	110+41-117+49-L- LT	0.47		0.47
9	112+57-116+35-L-RT	0.51		0.51
10	117+49-L-LT&RT	0.34	0.19	0.53
11	118+15-217+87-L-LT	0.28		0.28
12	120+35-127+74-L-RT	0.70		0.70
13	126+00-126+50-L-LT	0.01	0.01	0.01
14	124+39-145+48-L-RT	2.05	0.02	2.07
15	151+41-L-RT	0.15	0.02	0.17
17	166+32-L-LT&RT	0.06	0.00	0.06
18	166+73-L-LT&RT	0.07	0.01	0.08
20	163+73-L-LT&RT	0.11		0.11
22	175+00-184+16-L-LT&RT	0.98	0.02	1.00
23	177+13-198+17-L-LT&RT	0.42	0.04	0.46
25	199+05-L-LT&RT	0.12	0.01	0.12
27	205+35-211+16-L-LT&RT	0.25	0.02	0.27
27a Streambank			0.01	0.01
29	212+90-213+70-L-RT	0.00	0.02	0.02
30	26+22-30+19 Y8RPC-LT&RT	0.14	0.01	0.14
30a Streambank		0.01		0.01
31	215+61.5-L-LT&RT	0.08	0.01	0.09
32	214+85-L-RT	0.01	0.02	0.02
34	223+72.58-224+45-L-RT	0.01	0.01	0.03
35	33+79 Y8RPDB-LT	0.19	0.00	0.19
35a Streambank		0.00		0.00
36	40+74-42+78 Y8RPDB LT&RT	0.34	0.04	0.38
36a Streambank		0.02		0.02
38	40+46-Y8-LT	0.01	0.02	0.04
40	18+68-Y18-LT	0.06		0.06
<b>Total for U-4851</b>		<b>7.76</b>	<b>0.51</b>	<b>8.27</b>
R-3300	Proposed impacts	2.56		2.56
<b>TOTAL</b>		<b>10.32</b>	<b>0.51</b>	<b>10.83</b>

**Total Open Water Impact for U-4751: 8.27 acres.**

The application provides adequate assurance that the discharge of fill material into the waters of the Cape Fear River Basin and the White Oak River Basins in conjunction with the proposed development will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your application dated received December 21, 2016 and subsequent information received on May 30, 2017. Should your project change, you are required to notify the NCDWR and submit a new application. If the property is sold, the new owner must be given a

copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

**Condition(s) of Certification:**

**Project Specific Conditions**

1. The NCDOT Division Environmental Officer or Environmental Assistant will conduct a pre-construction meeting with all appropriate staff to ensure that the project supervisor and essential staff understand the potential issues with stream and pipe alignment at the permitted site. NCDWR staff shall be invited to the pre-construction meeting. [15A NCAC 02H.0506(b)(2) and (b)(3)]
2. If multiple pipes or barrels are required, they shall be designed to mimic natural stream cross section as closely as possible including pipes or barrels at flood plain elevation and/or sills where appropriate. Widening the stream channel should be avoided. Stream channel widening at the inlet or outlet end of structures typically decreases water velocity causing sediment deposition that requires increased maintenance and disrupts aquatic life passage. [15A NCAC 02H.0506(b)(2)]
3. Riprap shall not be placed in the active thalweg channel or placed in the streambed in a manner that precludes aquatic life passage. Bioengineering boulders or structures should be properly designed, sized and installed. [15A NCAC 02H.0506(b)(2)]
4. The stream channel shall be excavated no deeper than the natural bed material of the stream, to the maximum extent practicable. Efforts must be made to minimize impacts to the stream banks, as well as to vegetation responsible for maintaining the stream bank stability. Any applicable riparian buffer impact for access to stream channel shall be temporary and be revegetated with native riparian species. [15A NCAC 02H.0506(b)(2)]
5. Pipes and culverts used exclusively to maintain equilibrium in wetlands, where aquatic life passage is not a concern, shall not be buried. These pipes shall be installed at natural ground elevation. ) [15A NCAC 02H.0506(b)(2) and (b)(3)]
6. Tall fescue shall not be used in the establishment of temporary or permanent groundcover within riparian areas. For the establishment of permanent herbaceous cover, erosion control matting shall be used in conjunction with an appropriate native seed mix on disturbed soils within the riparian area and on disturbed steep slopes with the following exception. Erosion control matting is not necessary if the area is contained by perimeter erosion control devices such as silt fence, temporary sediment ditches, basins, etc. Matting should be secured in place with staples, stakes, or wherever possible, live stakes of native trees. Erosion control matting placed in riparian areas shall not contain a nylon mesh grid, which can impinge and entrap small animals. For the establishment of temporary groundcover within riparian areas, hydroseeding along with wood or cellulose based hydro mulch applied from a fertilizer- and limestone-free tank is allowable at the appropriate rate in conjunction with the erosion control measures. Discharging hydroseed mixtures and wood or cellulose mulch into surface waters is prohibited. Riparian areas are defined as a distance 25 feet landward from top of stream bank.
7. When final design plans are completed for R-3300, a modification to the 401 Water Quality Certification shall be submitted with five copies and fees to the NC Division of Water Resources. Final designs shall reflect all appropriate avoidance, minimization, and mitigation for impacts to wetlands, streams, and other surface waters, and buffers. No construction activities that impact any wetlands, streams, surface waters, or buffers located in R-3300 shall begin until after the permittee applies for, and receives a written modification of the 401 Water Quality Certification from the NC Division of Water Resources. [15A NCAC 02H. 0506(b)]

## General Conditions

8. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and downstream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWR. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWR for guidance on how to proceed and to determine whether or not a permit modification will be required. [15A NCAC 02H.0506(b)(2)]
9. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills. [15A NCAC 02B.0200]
10. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers. [15A NCAC 02H.0506(b)(2)]
11. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions. [15A NCAC 02H.0506(b)(2)]
12. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage. [15A NCAC 02H.0506(b)(2)]
13. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval. [15A NCAC 02H .0507 (c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
14. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water. [15A NCAC 02H.0506(b)(3) and (c)(3)]
15. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream. [15A NCAC 02H.0506(b)(3)]
16. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials. [15A NCAC 02H.0506(b)(3)]
17. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification. [15A NCAC 02H.0506(b)(3)]
18. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited. [15A NCAC 02H.0506(b)(3)]
19. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If the NCDWR determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, the NCDWR may reevaluate and modify this certification. [15A NCAC 02B.0200]
20. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification. [15A NCAC 02H.0506(b)(2)]

21. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
22. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization, including all non-commercial borrow and waste sites associated with the project, shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification. [15A NCAC 02H.0501 and .0502]
23. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
24. The Permittee shall report any violations of this certification to the Division of Water Resources within 24 hours of discovery. [15A NCAC 02B.0506(b)(2)]
25. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify the NCDWR when all work included in the 401 Certification has been completed. [15A NCAC 02H.0502(f)]
26. Native riparian vegetation must be reestablished in the riparian areas within the construction limits of the project by the end of the growing season following completion of construction. [15A NCAC 02H 0506(b)(2)]
27. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities. [15A NCAC 02H.0506(b)(3) and (c)(3)]
28. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards [15A NCAC 02H.0506(b)(3) and (c)(3)]
  - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
  - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
  - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
  - d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
29. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification. [15A NCAC 02H.0506(b)(3) and (c)(3)]
30. Compensatory mitigation for 1,891 linear feet of impact to streams is required. We understand that you have chosen to perform compensatory mitigation for impacts to streams through the Division of Mitigation Services (DMS), and that the DMS has agreed to implement the mitigation for the project. The DMS has indicated in a letter dated December 5, 2016 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the DMS Mitigation Banking Instrument signed July 28, 2010.
31. Compensatory mitigation for impacts to 60.52 acres of non-riverine wetlands is required. We understand that you have chosen to perform compensatory mitigation for impacts to wetlands through the Northeast Cape Fear Umbrella Mitigation Bank, and that the bank has agreed to implement the mitigation for the project. The Northeast Cape Fear Umbrella Mitigation Bank has indicated in a letter dated December 6,

2016 that they will assume responsibility for satisfying the Federal Clean Water Act compensatory mitigation requirements for the above-referenced project.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 or CAMA permit.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission.  
The mailing address for the Office of Administrative Hearings is:

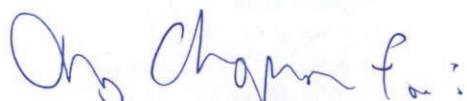
Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919) 431-3000, Facsimile: (919) 431-3100

A copy of the petition must also be served on DEQ as follows:

Mr. Bill F. Lane, General Counsel  
Department of Environmental Quality  
1601 Mail Service Center  
Raleigh, NC 27699

This the 2nd day of June 2017

DIVISION OF WATER RESOURCES



S. Jay Zimmerman, Director

WQC No.WQ004116

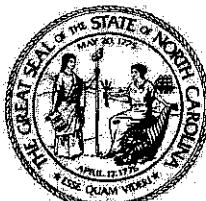
ROY COOPER  
*Governor*

ELIZABETH S. BISER

*Secretary*

BRAXTON DAVIS

*Director*



NORTH CAROLINA  
*Environmental Quality*

February 22, 2022

Mr. Chad Kimes, PE, Division 3 Engineer  
N.C. Department of Transportation  
5501 Barbados Boulevard  
Castle Hayne, NC 28429-5647

**SUBJECT:** **CD 17-018 - Supplemental Consistency Concurrence, Hampstead Bypass (Beane Wetland Mitigation Site) in New Hanover County, TIP No. R-3300.**

Dear Mr. Kimes:

The N.C. Division of Coastal Management (DCM) received a supplemental consistency submission from the N.C. Department of Transportation (NCDOT) dated January 12, 2022, for the construction of the Beane Mitigation Site in New Hanover County. The NCDOT submittal states that the mitigation site will solely be used to provide mitigation for authorized impacts associated with the R-3300 (Hampstead Bypass) project. The submittal includes a cover letter, vicinity map, permit drawing, construction drawings and the final mitigation plan.

North Carolina's coastal zone management program consists of, but is not limited to, the Coastal Area Management Act, the State's Dredge and Fill Law, Chapter 7 of Title 15A of North Carolina's Administrative Code, and the land use plan(s) of the county and/or local municipalities in which the proposed project is located. It is the objective of DCM to manage the State's coastal resources to ensure that proposed Federal activities would be compatible with safeguarding and perpetuating the biological, social, economic and aesthetic values of the State's coastal resources.

DCM circulated the supplemental consistency certification to state agencies that would have a regulatory or resource interest in the construction of the Beane Mitigation Site. No comments were received asserting that the proposed project would be inconsistent with North Carolina's coastal management program. DCM reviewed the information submitted by NCDOT, and the comments received from state agencies, pursuant to the management objectives and enforceable policies of Subchapters 7H and 7M of Chapter 7 in Title 15A of the North Carolina Administrative Code.

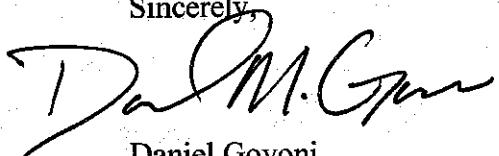


North Carolina Department of Environmental Quality | Division of Coastal Management  
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557  
252.808.2808

DCM concurs that the proposed project is consistent, to the maximum extent practicable, with North Carolina's approved coastal management program. Should the proposed action be modified further, a revised consistency determination could be necessary. This might take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46, or a new consistency determination pursuant to 15 CFR 930.36. Likewise, if further project assessments reveal environmental effects not previously considered, a supplemental consistency certification may be required.

If you have any questions or concerns, please contact Cathy Brittingham via e-mail at [cathy.brittingham@ncdenr.gov](mailto:cathy.brittingham@ncdenr.gov) or Stephen Lane via e-mail at [Stephen.Lane@ncdenr.gov](mailto:Stephen.Lane@ncdenr.gov). Thank you for your consideration of the North Carolina coastal management program.

Sincerely,



Daniel Goyoni  
Federal Consistency Coordinator  
N.C. Division of Coastal Management

cc: Brad Shaver, USACE  
Hannah Sprinkle, DWR  
Stephen Lane, DCM  
Mason Herndon, NCDOT



North Carolina Department of Environmental Quality | Division of Coastal Management  
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557  
252.808.2808

## PERMIT DRAWING

Beane Ditch Impacts (acres)		
Site No.	Structure/Size/Type	Permanent SW Impacts (a)
T-2	Fill	0.047
T-4	Stream Plugs	0.106
T-5/16/FSH	Fill	0.059
T-5/19	Fill	0.583
T-10/18/21	Fill	0.883
T-11	Fill	0.926
T-12	Fill	0.474
T-13	Fill	0.201
T-14/15	Fill	0.635
T-16/17	Fill	1.390
T-20	Fill	0.203
<b>Total</b>		<b>5.506</b>

Temporary Wetland Impacts by Clearing and Grubbing		
Wetland	Acreage (ac)	Activity
FWC1	3.682	Clearing & Grubbing
FWC2	18.951	Clearing & Grubbing
FWC3	0.001	Clearing & Grubbing
FWD	31.625	Clearing & Grubbing
MWA	24.122	Clearing & Grubbing
MWI	0.099	Clearing & Grubbing
TWA	0.001	Clearing & Grubbing
<b>Total</b>	<b>78.481</b>	

Temporary Wetland Impacts by Grading		
Wetland	Acreage (ac)	Activity
FWC4	0.017	Grading
MWC2	0.002	Grading
MWG	0.080	Grading
<b>Total</b>	<b>0.099</b>	

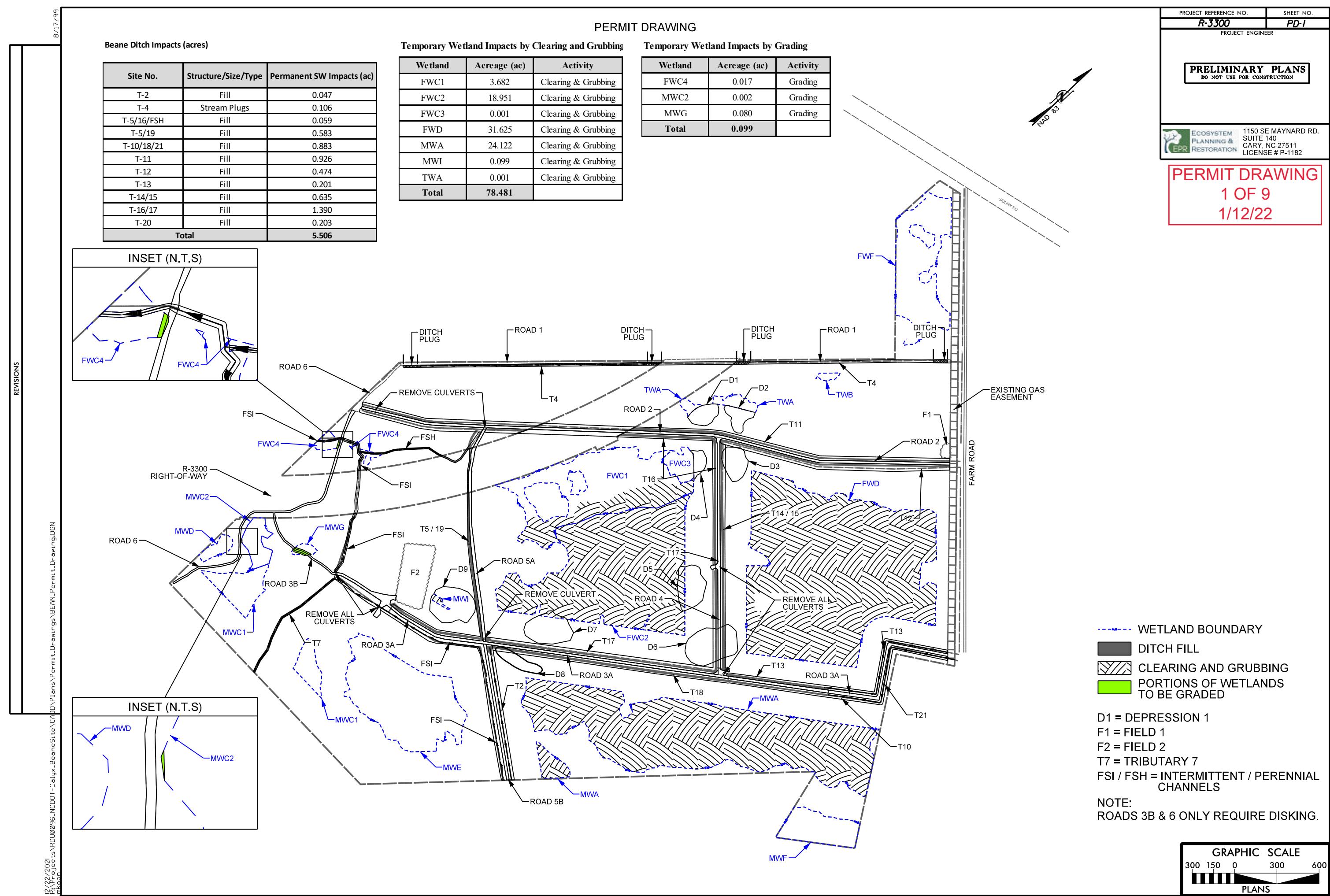
**PRELIMINARY PLANS**  
DO NOT USE FOR CONSTRUCTION

The logo for Ecosystem Planning & Restoration (EPR) features a stylized green tree on the left, with the company name in a serif font to its right.

PERMIT DRAWING  
1 OF 9  
1/12/22

## REVISIONS

12/22/2021





## CONSTRUCTION SEQUENCE

## PHASE 1

## MOBILIZATION AND ESTABLISHMENT OF GENERAL EROSION CONTROL MEASURES

1. LIMITS OF DISTURBANCE IS 45.9 ACRES IN TOTAL.
2. Stockpile materials in designated staging areas.
3. Install silt fencing to the limits shown on the plans and at any other locations as directed by the Engineer. Silt fencing will be installed around the limits of all staging and stockpile areas.
4. Install safety fencing as shown on the plans and at all other locations as directed by the Engineer.

## PHASE 2

## ROAD REMOVAL, CULVERT REMOVAL, AND DITCH FILLING

(Numbered callouts and arrows on Erosion Control Sheets correspond to the following items. Arrows indicate direction of work.)

1. Remove Road 6 on northern side of FSI crossing. Remove (2) 48" CMP culverts (previously damaged) at FSI. Reroute and stabilize banks of FSI. Remove remaining section of Road 6 on southern side of FSI.
2. Remove Road 6 and Road 3B up to FSI crossing. Remove (1) 60" CPP at FSI. Reroute and stabilize banks of FSI.
3. Remove Road 3A up to the location of the (2) 48" CMP culverts located in FSI and the (1) 42" CMP culvert that connects T19 to FSI. Remove the (2) 48" CMP culverts in FSI. Reroute and stabilize banks of FSI.
4. Remove (1) 42" CMP connecting T19 and FSI, breaking any remaining connection with the upstream ditch network. Reroute and stabilize banks of FSI.
5. Remove Road 3A and fill adjacent ditch (T19) working in direction towards the intersection of Road 3A and Road 5A.
6. Remove Road 5A and fill T5 / T19 working in direction towards the intersection of Road 3A and Road 5A. Complete grading for D9.
7. Remove Road 3A and fill T17 and T18 working in direction towards the intersection of Road 3A and Road 4. Complete grading for D7 and D8.
8. Remove Road 3A and fill T13 and T18 working in direction towards the intersection of Road 3A and Road 4.
9. Remove (4) 24" CPP culverts at intersection of Roads 3a and 4 located in T13 and T17. Complete grading for D6. Remove Road 4 and fill T17 and T14/15 up to location of (1) 24" CPP culvert along T16/T17.
10. Remove (1) 24" CPP along T16/T17. Continue road removal and ditch filling of T14/T15 and T16/17 towards intersection of Roads 2 and 4. Complete grading for D3.
11. Remove the (1) 12" CPP culvert located on T16. T16 is connected to FSH, so removing this connection breaks any connection to FSH and the upstream ditch network.
12. Remove a short section of Road 2 up to the location of (1) 18" CMP connecting T11 and T20. Remove (1) 18" CMP culvert and continue filling T20, T11, and T16 to the western edge of the R-3300 corridor.
13. Starting at the eastern edge of the R-3300 corridor, begin removing Road 2 and fill T11 and T16 working in direction towards the intersection of Roads 2 and 4.
14. Remove Road 2 and fill T11 and T12 working in direction towards the intersection of Road 2 and Gas Line Easement / Farm Road.
15. Install ditch plugs in T4 starting on western edge of project and moving to the east toward the Gas Line Easement and Farm Road.
16. While performing work within each zone above ensure the following occurs:
  - a. Perform required clearing and grubbing, including specified removal of dead mature trees and/or dead specimen trees.
  - b. Segregate and stockpile topsoil and other soil material in accordance with the project specifications.
  - c. Remove and dispose of all unused vegetation materials.
  - d. All excavated soil materials not utilized will be stockpiled and maintained according to the project specifications. After the completion of construction, all unused soil materials shall be spread on site in designated areas at the direction of the Engineer. Spread soil to be stabilized using seeding per the project specifications. If any excavated soil materials need to be, are specified to, and actually are disposed of off-site by the Contractor, the Contractor is responsible for disposal of such soil materials in a permitted area, as well as for providing and implementing an erosion and sedimentation control plan and permit, or any other required permit(s), for the location(s) off site where such materials are disposed.

## PHASE 3

## DEMOBILIZATION

1. Complete remaining minor grading and site planting preparation work, including ripping and/or disk, as specified in the project specifications.
2. All remaining disturbed areas, including areas that have been ripped and/or disked after temporary and/or permanent seeding activities, are to be amended, seeded, matted and/or mulched according to the project specifications.
3. After all construction requiring heavy equipment is completed, remove silt fence, restore construction access roads, staging areas, and stockpile areas. Immediately regrade, replace topsoil, and seed, amend, and mulch as specified in the project specifications.
4. Remove temporary construction entrances. Immediately regrade, seed, amend, and mulch as specified in the project specifications.
5. Remove all tree protection fencing.
6. Remove and dispose of all trash, metal, and debris from the site according to local, state and federal regulations.

## GENERAL NOTES

1. WORK IS BEING PERFORMED AS AN ENVIRONMENTAL RESTORATION PLAN. THE CONTRACTOR SHOULD MAKE ALL REASONABLE EFFORTS TO REDUCE SEDIMENT LOSS AND MINIMIZE DISTURBANCE OF THE SITE WHILE PERFORMING THE CONSTRUCTION WORK.
2. CONSTRUCTION IS SCHEDULED TO BEGIN SPRING 2022.
3. CONTRACTOR SHOULD CALL NORTH CAROLINA "ONE-CALL" BEFORE EXCAVATION STARTS. (1-800-632-4949) FOR THE ADJACENT PIEDMONT NATURAL GAS LINE.

PROJECT REFERENCE NO.		SHEET NO.
R-3300		OSM-1A
PROJECT ENGINEER		

**PRELIMINARY PLANS**  
DO NOT USE FOR CONSTRUCTION

 Ecosystem Planning & Restoration 1150 SE MAYNARD RD. SUITE 140 CARY, NC 27511 LICENSE # P-1182

**PERMIT DRAWING**  
3 OF 9  
1/12/22

## INDEX OF SHEETS

OSM-1... TITLE SHEET  
 OSM-1A... GENERAL NOTES  
 STANDARD SPECIFICATIONS  
 CONSTRUCTION SEQUENCE  
 OSM-1B... CONVENTIONAL PLAN SHEET SYMBOLS  
 OSM-2 TO 2A... DETAILS  
 OSM-3... SUMMARY OF QUANTITIES  
 SUMMARY OF EARTHWORK FOR MITIGATION  
 OSM-4... PROPOSED CLEARING AND GRUBBING OVERVIEW  
 OSM-5 TO OSM-6... PROPOSED CLEARING AND GRUBBING PLAN  
 OSM-7... PROPOSED GRADING OVERVIEW  
 OSM-8 TO OSM-9... PROPOSED GRADING PLAN  
 OSM-10 TO OSM-11... PROPOSED WETLAND MITIGATION PLAN  
 EC-1 TO EC-7... EROSION CONTROL PLAN  
 X1 TO X35... PROPOSED CROSS SECTIONS

## SYMBOLS

	STREAM PLUG		SILT FENCE
	DITCH FILL		— 5 — EXISTING MAJOR CONTOUR
	ROAD REMOVAL		— 1 — EXISTING MINOR CONTOUR
	EXISTING WETLAND		— - - - LIMITS OF DISTURBANCE
	PORTIONS OF DEPRESSIONS TO BE GRADED		— - - - 30' BUFFER
	CLEARING AND GRUBBING		— — — PROPERTY LINE
	GAS EASEMENT		— - - - PROPOSED FLOW PATH
	WETLAND ENHANCEMENT		
	WETLAND RESTORATION		
	WETLAND PRESERVATION		

\*\*NOTE: ALL ITEMS ABOVE MAY NOT BE USED ON THIS PROJECT  
SUPERCEDES SHEET 1-B

## CLEARING AND GRUBBING = 154 AC.

**PRELIMINARY PLANS**  
DO NOT USE FOR CONSTRUCTION

The logo for Ecosystem Planning & Restoration (EPR) features a stylized green tree on the left, with the company name in a serif font to its right. Below the tree, the letters 'EPR' are written in a bold, sans-serif font.

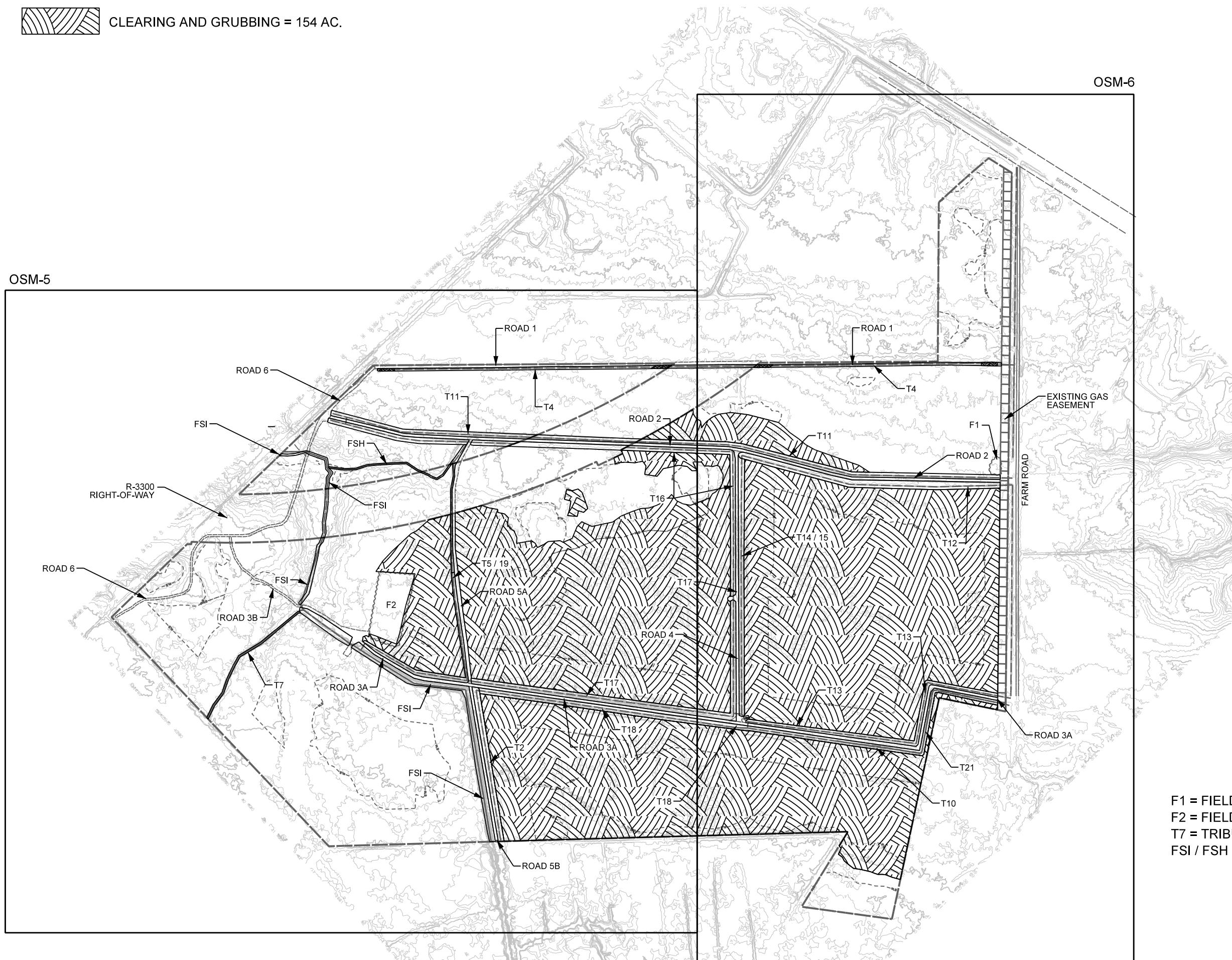
PERMIT DRAWING  
4 OF 9  
1/12/22

1150 SE MAYNARD RD.  
SUITE 140  
CARY, NC 27511  
LICENSE # P-1182

OSM-5

REVISIONS

R:\Projects\RDU00096-NCDD-Calux-BeaneSite\CADD\Plans\04-BEAN-PSH-LRP-DVFFVIEW.DGN  
12/17/2021



F1 = FIELD 1  
F2 = FIELD 2  
T7 = TRIBUTARY 7  
FSI / FSH = INTERMITTENT / PERENNIAL CHANNELS

**PRELIMINARY PLANS**  
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The logo for Ecosystem Planning & Restoration (EPR) features a stylized green and blue graphic of a plant or flower on the left, followed by the company name in a serif font.

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Page 1 of 1

D 2

PERMIT DRAWING  
5 OF 9  
1/12/22

D 3A

A graphic scale for 'PLANS' with a horizontal axis ranging from 0 to 400. The scale is marked at 0, 100, 200, and 400. The left side of the scale is marked with vertical tick marks. The scale is represented by a black bar with a triangular cutout on the right side, starting from the 0 mark and ending at the 400 mark. The word 'PLANS' is written below the scale.

## REVISIONS

R:\Projects\RDU0096\_NCDOT-Calyx-BeaneSite\CA00\Plans\05-BEAN\_PSH.DGN 12/17/2021

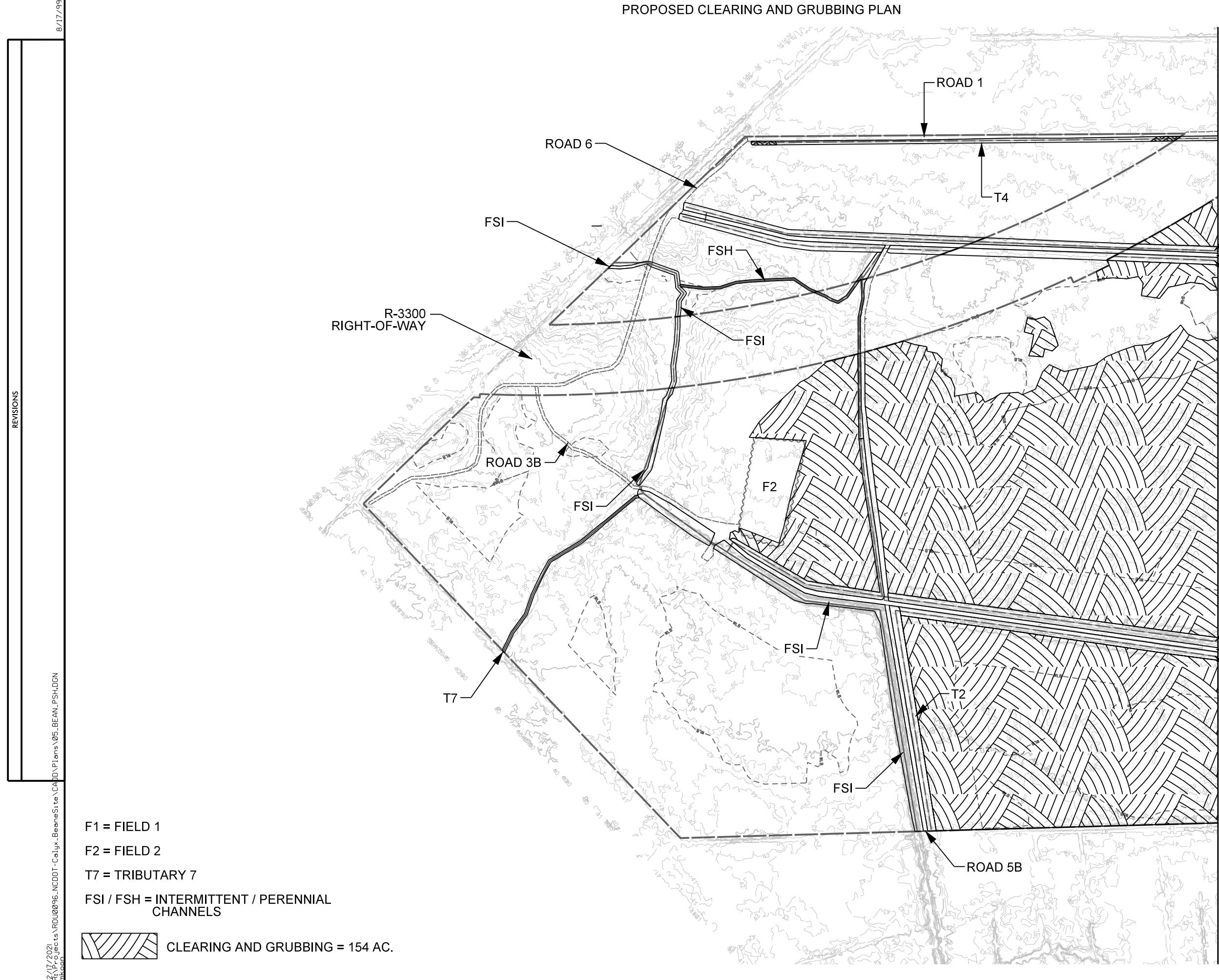
F1 = FIELD 1

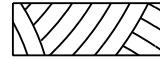
F2 = FIELD 2

## T7 = TRIBUTARY 7

## FSI / FSH = INTERMITTENT / PERENNIAL CHANNELS

CLEARING AND GRUBBING = 154 AC.





CLEARING AND GRUBBING = 154 AC.

## PROPOSED CLEARING AND GRUBBING PLAN

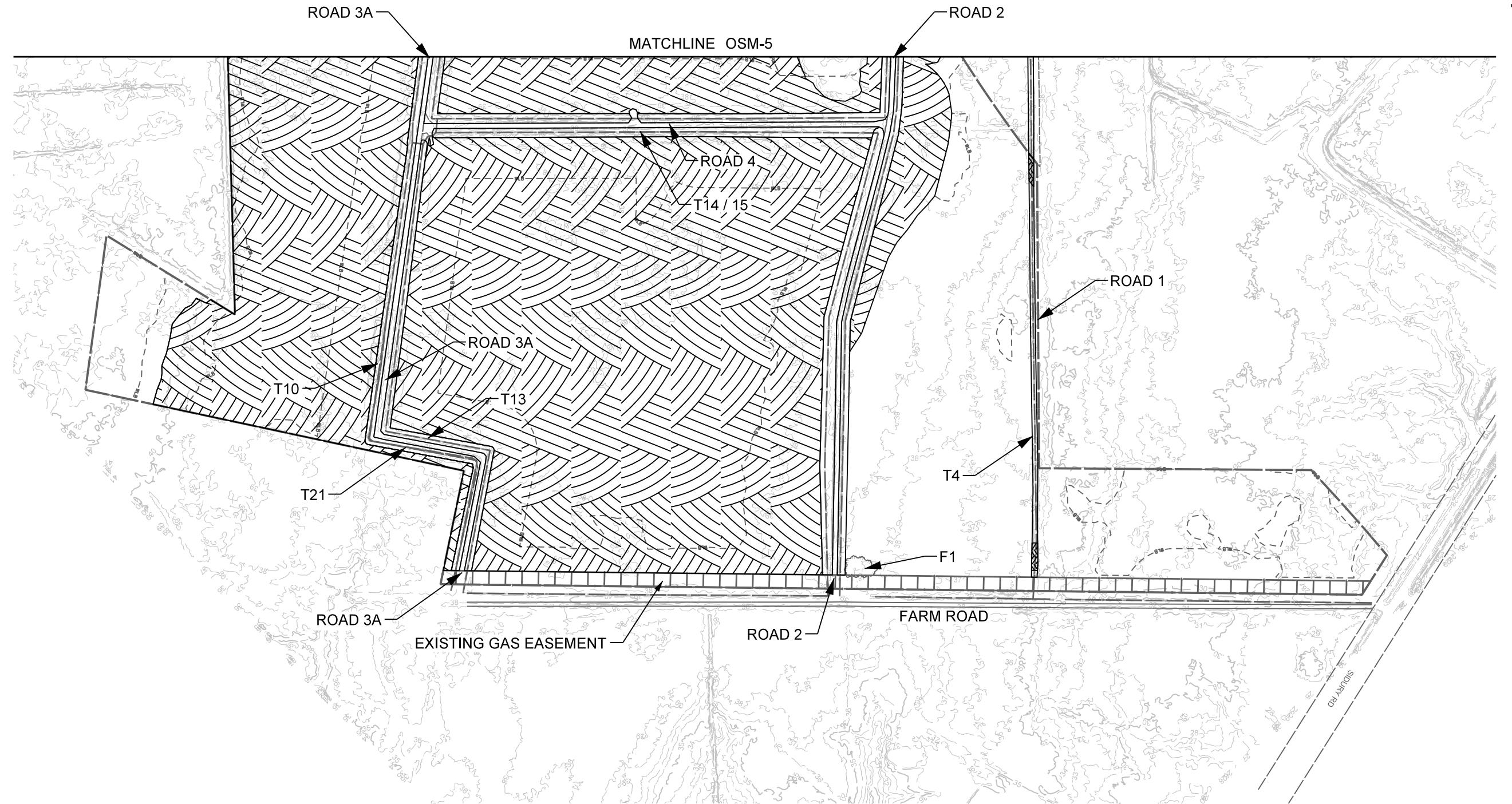
**PERMIT DRAWING**  
6 OF 9  
1/12/22

PROJECT REFERENCE NO. R-3300  
SHEET NO. OSM-6  
PROJECT ENGINEER

**PRELIMINARY PLANS**  
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Restoration  
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REVISIONS



## PROPOSED GRADING OVERVIEW

PERMIT DRAWING

7 OF 9

1/12/22

8/17/99

PROJECT REFERENCE NO. R-3300  
SHEET NO. OSM-7  
PROJECT ENGINEER

PRELIMINARY PLANS  
DO NOT USE FOR CONSTRUCTION

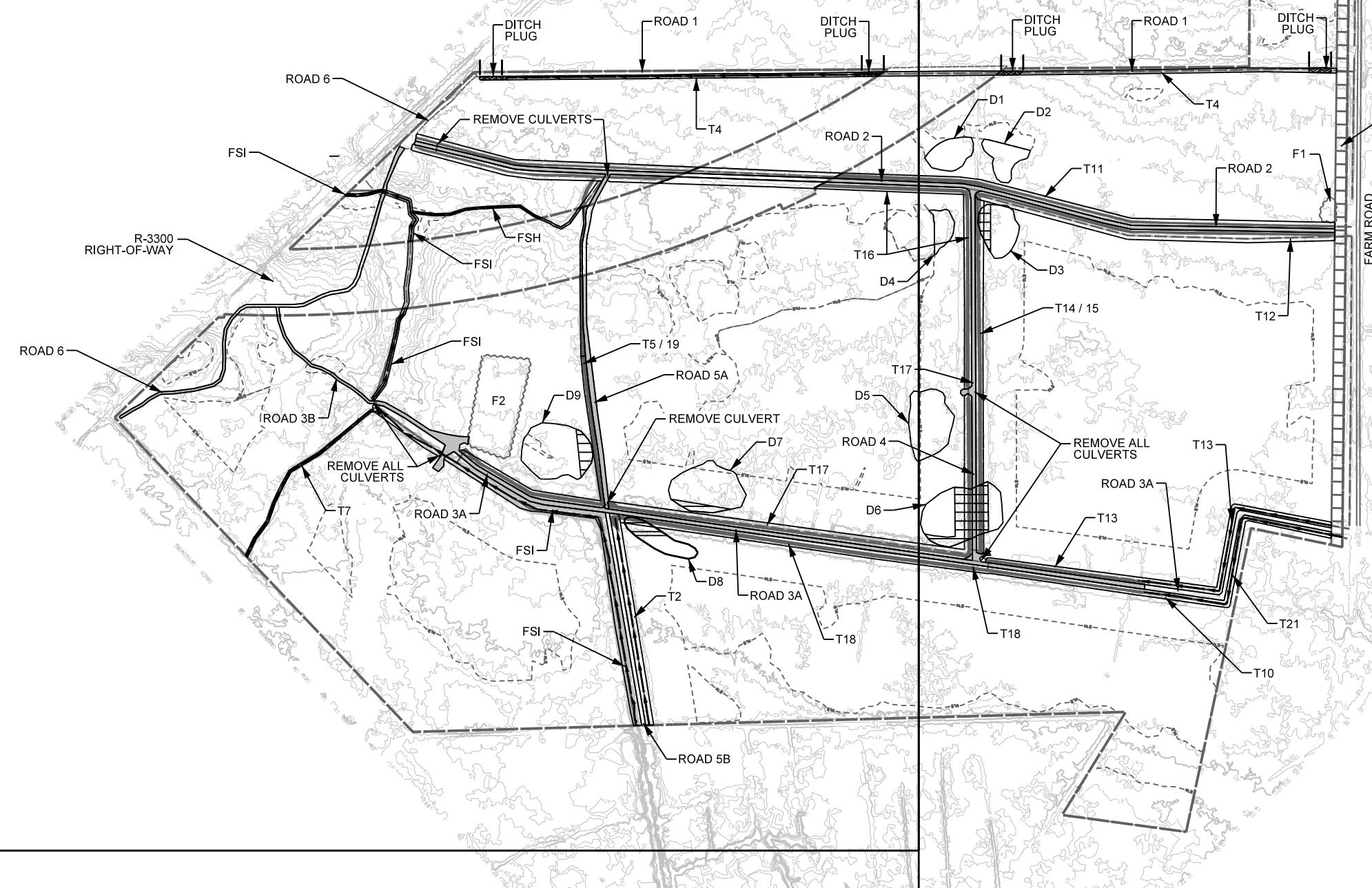
 Ecosystem Planning & Restoration  
1150 SE MAYNARD RD.  
SUITE 140  
CARY, NC 27511  
LICENSE # P-1182

OSM-8

OSM-9

NAD 83

REVISIONS



PERMIT DRAWING  
8 OF 9  
1/12/22

A diagram showing a vector line with an arrowhead at the top right. The text "NAD 83" is written along the line, with a small circle and a line pointing to the text.

MATCHLINE OSM-9

## REVISIONS

1 REMOVE CULVERT 1 - 18" CMP

1 REMOVE CULVERT

FSI

R-3300 RIGHT-OF-WAY

ROAD 6

12

13

ROAD 2

11

15

PLUG

1 REMOVE CULVERT 1-12" CPP

FSI

FSH

1

1

6

T5 / 19

ROAD 5A

D5 (DO NOT DISTURB)

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3

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ROAD 3A

ROAD 3B

1 REMOVE CULVERT 1-36" CMP

1 REMOVE CULVERTS 1- 60" CPP

1 REMOVE CULVERTS 2- 48" CMP

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- D1 = DEPRESSION 1
- F2 = FIELD 2
- T7 = TRIBUTARY 7
- FSI / FSH = INTERMITTENT / PERENNIAL CHANNELS
-  ROAD REMOVAL
-  DITCH FILL
-  PORTIONS OF DEPRESSIONS TO BE GRADED

NOTE:  
ROADS 3B & 6 ONLY REQUIRE DISKING.

A graphic scale for 'PLANS' with markings at 200, 100, 0, 200, and 400. The scale is marked with vertical lines and horizontal bars. The '0' mark is at the center, with '200' on both sides. '100' is to the left of '0', and '400' is to the right of '0'. Below the scale, the word 'PLANS' is written in capital letters.

NAD 83

REVISIONS

